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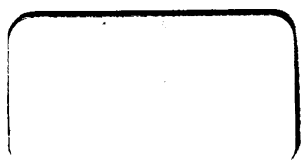
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TRIAL

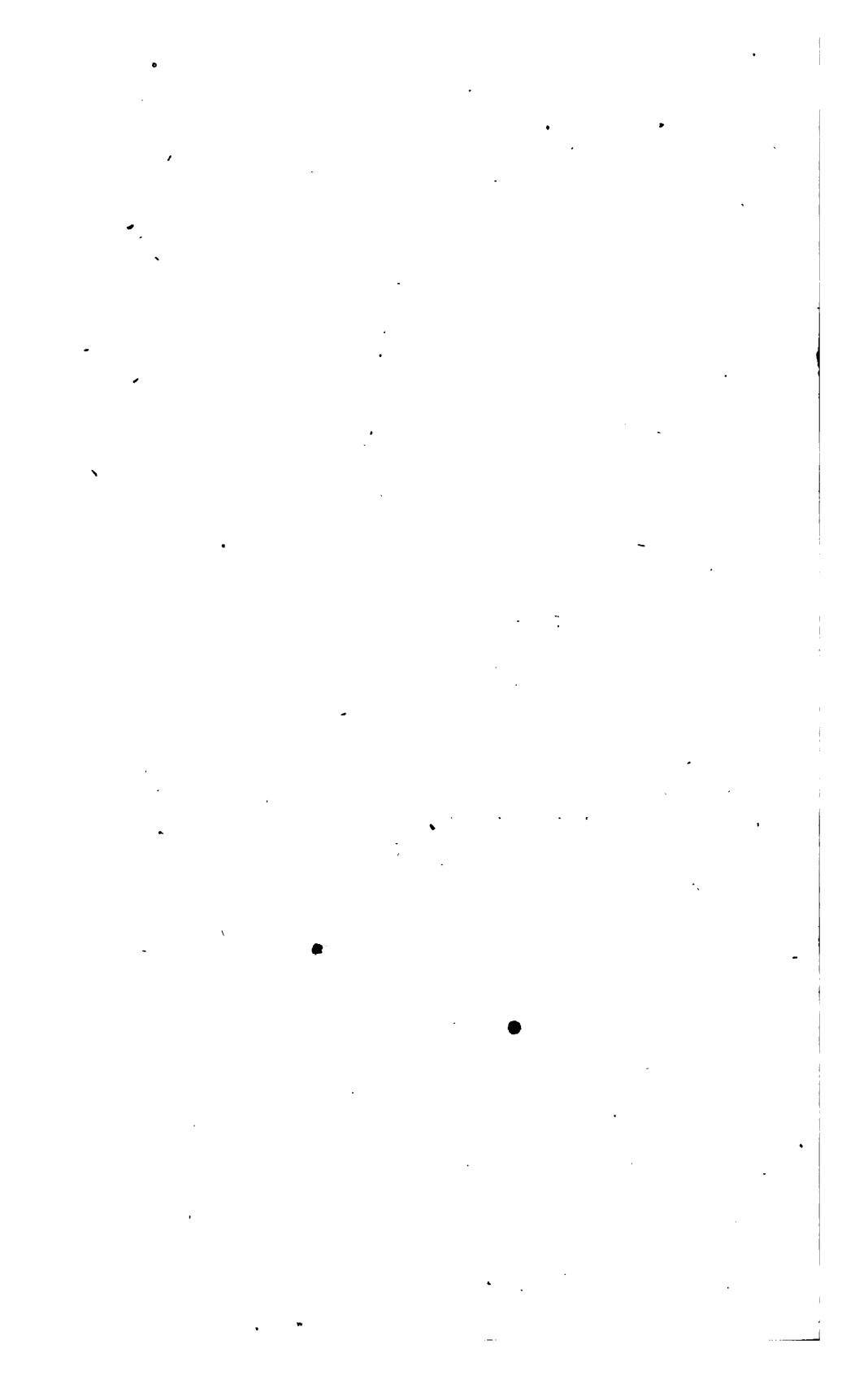
FOR

THE MURDER

OF

MR. WHITE.

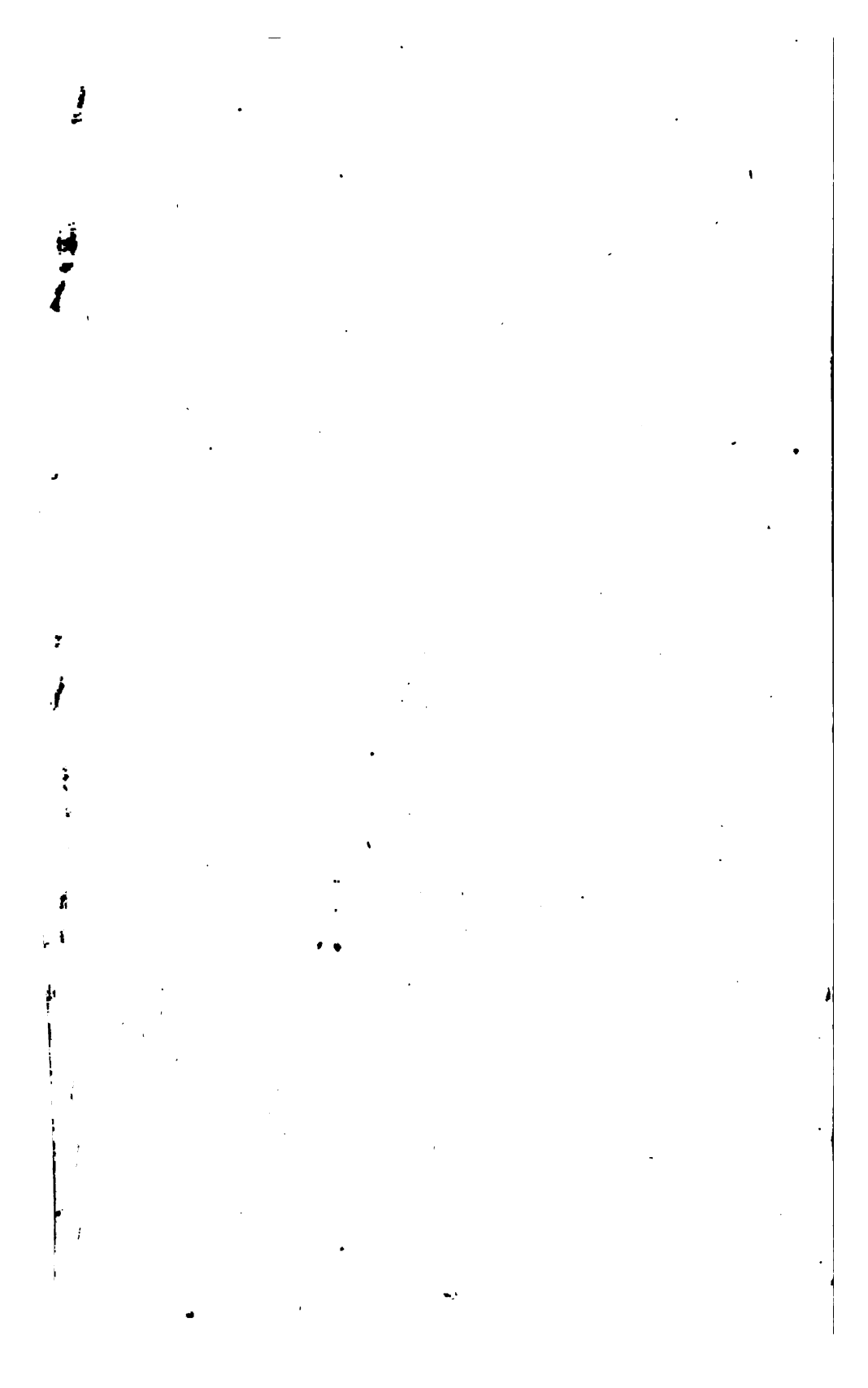
SALEM EDITION.



✓
A
REPORT
OF THE
EVIDENCE AND POINTS OF LAW,
ARISING IN
THE TRIAL
OF
JOHN FRANCIS KNAPP,
FOR
THE MURDER
OF
JOSEPH WHITE, ESQUIRE.
BEFORE THE
SUPREME JUDICIAL COURT
OF
THE COMMONWEALTH OF MASSACHUSETTS;

TOGETHER WITH
THE CHARGE
OF HIS HONOR CHIEF JUSTICE PARKER,
TO THE GRAND JURY,
AT THE OPENING OF THE COURT.

SALEM:
1830.

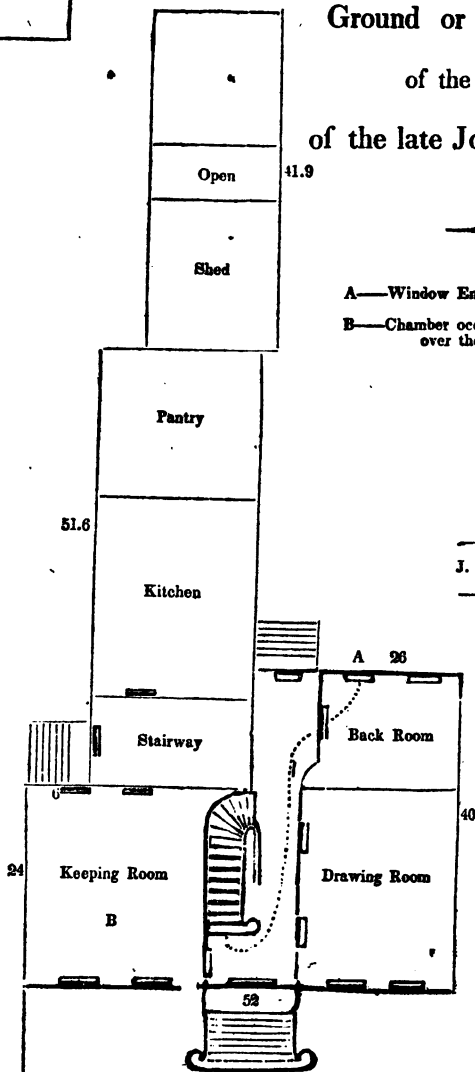


*Representation of the Chub, referred to by
Rev. Mr. Colman, on page 34.*



Barn
20 feet by 45

Ground or Lower Floor
of the house
of the late JOSEPH WHITE.



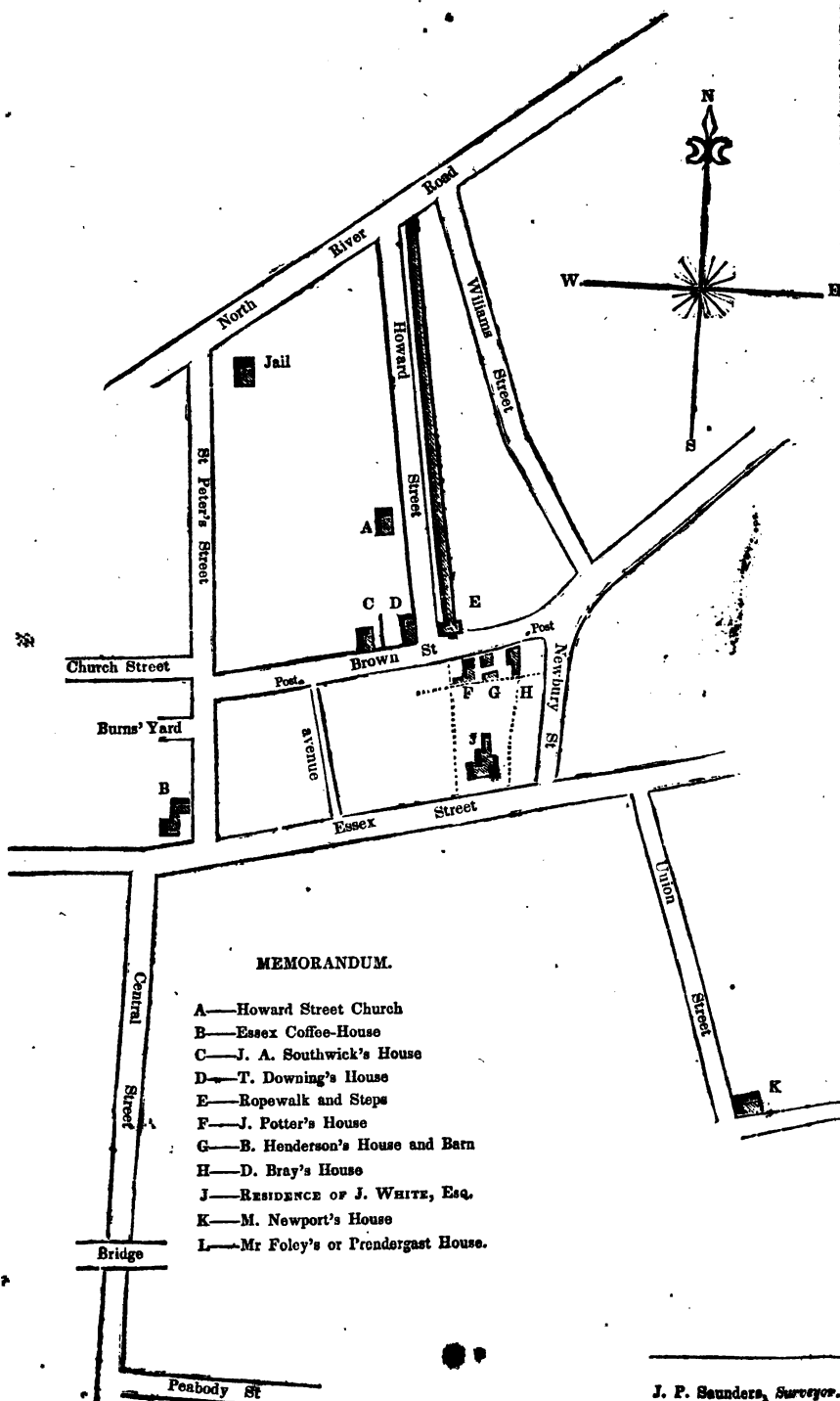
A—Window Entered

B—Chamber occupied by Capt. White,
over the Keeping Room.

J. P. Saunders, Surveyor.

T. Daland's

On Essex Street



NOTE.

BY THE PUBLISHERS.

" We intended to have published the Arguments of Counsel and the Charge of His Honor Judge Putnam to the Jury, but it having become necessary to issue the Trial sooner than we had anticipated, we are compelled to omit them ;—and if the next trial should be published, we shall then insert the charge and arguments at large.

We intended also to have published, in an Appendix, a Brief Sketch of the Proceedings of the Committee of Vigilance, and certain Documents connected with the developement of the facts relating to this Murder—but their nature is such, that a publication of them, at this time, is deemed inexpedient.

COMMONWEALTH OF MASSACHUSETTS.

At the Supreme Judicial Court for the Commonwealth of Massachusetts, holden at Salem, on the second Tuesday in July, A.D. 1830, pursuant to an Act of the Legislature, passed June 5, 1830,

PRESENT,

Hon. ISAAC PARKER, LL.D., *Chief Justice.*
Hon. SAMUEL PUTNAM, LL.D.,
Hon. SAMUEL S. WILDE, LL.D., } *Justices.*
Hon. MARCUS MORTON, LL.D., }

The Grand Jury being empaneled and sworn, the following very lucid and impressive charge was delivered to them by his Honor Chief Justice Parker.

Gentlemen of the Grand Jury,—

THIS Court is convened out of its ordinary season in virtue of a special appointment of the Legislature made at its last session, and you have been summoned here by the same authority, and having had the oath administered to you, which is prescribed by law to qualify you to act in the capacity of Grand Jurors, you now have become the Grand Inquest of the Commonwealth for the body of this County of Essex, with all the power and duties which pertain to that body when attending the ordinary sessions of this Court in relation to such cases as come within the purview of the statute above referred to.

The jurisdiction given to the Court by this Act of the Legislature, extends to all crimes and misdemeanors which may have been committed within the body of this County before the passing of this Act; such as may have occurred since that time are to be left to the usual administration of justice at the succeeding regular term of the Court.

Notwithstanding the general terms in which the jurisdiction is given, comprehending all crimes and misdemeanors, there is reason to believe that the chief purpose of the Legislature in establishing this term, was that judicial inquiry should be made into a transaction of a most afflictive nature which took place in this town some months since.

This transaction was of a nature to excite alarm and agitation, not only in the vicinity where it happened, but throughout the Commonwealth and even beyond it.

An aged and respectable citizen, living in the centre of this populous town, so long remarkable for its tranquillity, peace and order, he being surrounded by all those circumstances which usually give security to the property and person, has been assassinated in his bed, probably in the depth of sleep—his skull fractured by a blow from some heavy weapon—his body pierced with many wounds—and this was done with such secrecy that not a trace for a long time appeared to be left, by which the perpetrators of so horrid a deed could be discovered. No wonder that the shock felt here was so great; it has vibrated through the whole community.

Murder is under all circumstances an appalling crime, it exhibits in the

perpetrator the deepest stain of depravity of which human nature is capable. But when in the stillness of night, during the hours of repose, the assassin invades the quiet mansion—steals into the chamber of sleep—and converts that sleep into death by one fell blow, and as if insatiate of blood seeks the heart of the victim, which had already ceased to beat—there is no stoicism, no philosophy, hardly any religion which can repress those feelings of terror, those expressions of horror, which such a tragedy is calculated to produce.

I speak thus of the crime because it is notorious. We all feel alike about it, nor is there any occasion to suppress the feeling, but it must be regulated and kept within just bounds.

You are convened here not so much to inquire if a crime has been committed, though even that must be proved to you by legal evidence; as to seek out the perpetrators and present them, if discovered, to the bar of this Court for trial. It is the duty of the Court to warn you against suffering your indignation for the crime to affect your inquiries for the offenders. The popular voice justly cries out for vengeance, but it is only upon the guilty it ought to fall.

There is danger in all great excitements that the mind may be thrown off its balance, that the process of inquiry may be too rapid to be sure, that the suspected may readily be believed to be guilty, that prepossession may supersede proof. How apt are we all upon hearing of the commission of some great crime to listen greedily to every circumstance which has a tendency to fix the guilt upon some individual, to shut our ears against exculpatory facts, and to pass sentence of condemnation before any hearing and without any trial.

This is a state of mind which disables us from acting impartially in the office of judge or juror. We are to stand indifferent between the Commonwealth and the accused; ever to presume that he is innocent until we have proof that he is not. We are to sift and weigh all the facts produced in proof with a hope that they may all be consistent with his innocence. A Grand Jury especially, who by the very nature of their duty are prevented from hearing the accused, or any evidence in his favor except what may be drawn from the witnesses produced against him, should be cautious not to act hastily, or upon slight evidence.

They ought to be satisfied before they agree upon an indictment, that the evidence *as it appears before them*, is sufficient to convict him of the imputed crime, for it should not be sufficient under those circumstances, what probability is there of a conviction when the party shall be put upon his full defence, with the privilege of adducing counter evidence in his favour, and of counsel to enforce it? And no citizen ought to be exposed to the anxiety and ignominy of accusation for a capital offence if there be no probable proof of his guilt.

It is a most happy characteristic of our system of criminal justice that it requires deliberate and patient investigation. Let those who complain of the slowness of its pace, consider, that it is framed for the protection of innocence as well as for the punishment of guilt, and that more rapid movements might involve in ruin those who might afterwards be found not to have deserved it. Occasions like the present sometimes arise when a just indignation at some enormous crime pervades the whole community, and the officers of justice are loudly called upon by the public voice to hasten the exercise of their functions, and to purify the land of the blood with which it has been stained, by an early condemnation of the supposed perpetrator; but the law moves not from its course, it gives time for deliberation, for the return of sober thought which has been suspended by agitation and excitement,—it calls for proofs—it gives reasonable opportunity for defence—it proceeds warily and cautiously—and decides only when it may be presumed there is little room to doubt the rectitude of its decision, and this is all which can be attained by human tribunals, for fallibility is stamped upon every thing human.

Under the guidance however of a wise Providence, and with a due observance of legal formalities and rules, we may trust ourselves even with the lives of our fellow beings; for the law has committed them to our charge, and if we severally discharge our duty with honest hearts and with the use of all the light bestowed upon us, we shall stand approved to our consciences and to the Great and Just Judge whose ministers and servants we are.

There is more than common occasion for recommending the exertion of your powers to throw off all preconceived opinions, and to bring your faculties to the examination of the evidence which will be submitted to you with entire self collectedness and impartiality. The extraordinary character of the crime has seized upon all imaginations, and pre-occupied many judgments. An unusual publicity has been given to such discoveries and disclosures as have from time to time been made.

The self execution of one who has been supposed the immediate agent of the cruel deed, has given additional force to opinions before perhaps strongly conceived.

Gentlemen! It is on such great occasions that superior wisdom is called for. In the ordinary course of crime, the machinery of justice will work steadily and regularly, with only its customary superintendence. But when great and astonishing events occur, which call for judicial investigation—when the public mind is agitated and disturbed, and the popular voice is audible, crying for vengeance, it is then that those who are clothed with the robes of magistracy, or who otherwise become functionaries of the law, are to divest themselves of human passions—to elevate themselves above the dense atmosphere which surrounds them, and imitate, in their humble measure, the wisdom and impartiality of the God of Justice!

Gentlemen! We cannot but regret the unusual publicity that has been given to the facts and circumstances which have transpired on this mournful subject. We shall see, I fear, that it will have had a tendency to impede the course of inquiry; but we trust you, who represent the country in the first stage of this solemn proceeding, will assume the attitude of impartial judges of the evidence; that you will diligently inquire and true presentment make; that you will be influenced neither by prejudice nor favour; that you will present things truly, as they come to your knowledge, according to the best of your ability and understanding.

It is not necessary upon the present occasion to discuss the various classes of homicide, in order to distinguish that which is justifiable, as in self defence—that which is the effect of sudden provocation, which may be manslaughter,—and that which is the effect of malice aforethought, which is murder.

If it shall turn out in evidence that the house of the deceased was entered in the night time—that he was slaughtered in his bed; whether the object of the perpetrator was plunder, revenge, or the hope of reward from others who may have incited the deed, it is murder of the deepest die in regard to those who may have given the death wound, and any who may have been present, aiding and abetting the crime.

Such is the common law, and such is the provision of the statute of this Commonwealth, which enacts that if any person shall commit the crime of wilful murder, or shall be present aiding and abetting in the commission of such crime, or not being present shall have been accessory thereto before the fact, by counselling, hiring, or otherwise procuring the same to be done, every such offender who in the Supreme Judicial Court shall be duly convicted of either of the felonies and offences aforesaid shall suffer the punishment of death.

It may be a subject of inquiry, what constitutes *presence* within the meaning of the second branch of this enactment, '*present aiding and abetting in the commission of such crime.*'

And the construction of this phrase, which is taken from the common law, has been settled in ancient times by wise and learned sages of the law, and that construction adopted and sanctioned by successive judicial decisions down to the time of the adoption of our Constitution, so that the legislature which enacted this statute, without doubt referred to this construction when they framed it.

By this construction it is not required that the abettor shall be actually upon the spot when the murder is committed, or even in sight of the more immediate perpetrator or of the victim, to make him a principal.

If he be at a distance, co-operating in the act by watching to prevent relief, or to give an alarm, or to assist his confederate in escape, *having knowledge of the purpose and object of the assassin*,—this in the eye of the law is being present, aiding and abetting, so as to make him a principal in the murder.

The distinction between a person thus situated and one who is denominated by the statute an accessory before the fact is, that the latter is not only in every sense absent from the scene of crime, but is not an immediate participator in it; he may not know the time when and the place where it is committed. He has previously, perhaps days or months before, hired, counselled or procured the deed to be done, but he has no immediate agency in the deed.

His crime is deemed by the law to be as great as his who strikes the blow; it is often in a moral point of view greater, as it may combine a greater number of desperate and diabolical motives, without the influence of which the crime would never have been committed. It denotes the savage heart of the murderer, without his bold and daring hand. It puts in peril his own soul, and the souls of others, who, but for him might have gone free from the guilt of blood. Thus the law punishes the accessory before the fact in the same manner as it punishes the actual perpetrator—they are alike murderers.

There is at the common law a difference, and it is supposed to exist also under our statute, in regard to the form and the time of trial, between those who are called principals, and accessories before the fact, it being held that unless there be a conviction of a principal there can be no trial of the accessory. This difference, if it exist, is a relic of the unwise refinement of ancient times, there being no good reason why an accessory before the fact to a crime *proved* to have been committed, should not be tried and punished, although the principal may have escaped, by death or otherwise, the punishment which awaited his crime in this world.

But if occasion should arise to examine this point, and the common law should not be found to have been varied by our statute, the legislature will probably afford a remedy for future cases.

I have thus, gentlemen, I believe discharged all the duty of the Court, in this stage of its proceedings, in regard to the principal subject which will require your attention. If before the passing of the act under which we assemble, other offences cognizable in this Court shall have been committed, and not yet have been before a grand jury, you are authorized but not required by the statute to inquire into and present them. In regard to such cases as well as to any questions of law which may arise upon the subject on which I have given you the charge, you will have the advice and assistance of able and experienced officers of the government, whose duty it is to facilitate your investigations, and to reduce the result to such form of presentment as the nature of each case may require.

Gentlemen—Your duty and ours may be arduous and embarrassing—that it may be discharged with clear understandings and firm hearts let us look to the dispenser of all light and wisdom for his blessing upon our endeavours.

The customary prayer was then offered up by the Rev. Mr. CLARELAND, and the Court, having been thus opened, was addressed by FRANKLIN DEXTER, Esq., of Boston, as one of the Counsel for the prisoners in the following motion:

DEXTER. Before the grand jury go out, I would respectfully move, that they be instructed as to what evidence they should receive. This was done in a celebrated case;—that of Aaron Burr.

CHIEF JUSTICE. That case is remarkable for that, and another circumstance, not known to our law, that is, the challenge of grand jurors. With us the Court never instruct the grand jury upon the nature of the evidence to be heard before them. There will be a revision of their doings and it is unnecessary to go into the inquiry before hand.

SOLICITOR GENERAL. It is a sufficient answer to the suggestion of the gentleman, that in the case alluded to, Chief Justice Marshall said that "it was usual and the best course for the court to charge the jury generally, and to give their opinion on incidental points as they arose, when the grand jury themselves should apply to them for information."

DEXTER. It is true that the remark was made by Chief Justice Marshall, but he did send special instructions to the grand jury before the question arose. He did direct that "no affidavits nor papers, containing distinct substantive testimony against the accused should be sent to the grand jury."[†]

CHIEF JUSTICE. It would be a very inconvenient practice. The law reposes confidence in the officers of the government; they are not supposed to procure an indictment against a man upon improper evidence.

It is the opinion of the Court that they cannot go out of the usual course. They think it would be a good rule for the officers of the government to adopt, to offer no evidence to the grand jury, which they would not be willing to offer in Court.

DEXTER. Before the jury retire, I wish to inquire if the English practice does not prevail here, to indorse the names of the witnesses examined before the grand jury upon the indictment.

SOL. GENERAL. We have a better practice, and that is, to return the names of the witnesses examined before the grand jury, and that makes a part of the record of the case.

The Court then adjourned to Thursday morning, at 9 o'clock. Thursday morning the Court met and adjourned to 3 o'clock, P. M. Afternoon, met and adjourned to Friday morning, at 8 o'clock.

FRIDAY MORNING.

At the opening of the Court, the CHIEF JUSTICE remarked that there seemed to be an intention of publishing in the newspapers, the proceedings of the Court from day to day. Such publications must necessarily be imperfect, and perhaps mischievous. The Court is, therefore, decidedly of opinion that the proceedings ought not to be thus published, as they would give only imperfect information. What passes one day may be essentially altered or modified by the doings of a subsequent day.—There may be no objection to publishing the state of the case as it advances; but there must be no publication of the evidence before the trials are concluded.

The Grand Jury came into Court with the bills which they had found.

The prisoners, John Francis Knapp, George Crowninshield, and Joseph Jenkins Knapp, junior, were then placed at the bar and the following indictment was read by the Clerk.

[* Vide Burr's Trial, Vol. 1, p. 174.]

[† Burr's Trial, Vol. 1, p. 109.]

INDICTMENT.

COMMONWEALTH OF MASSACHUSETTS.

Essex, ss—At a special term of the Supreme Judicial Court, begun and holden at Salem, within and for the said county of Essex, by virtue of an act, entitled "An Act to provide a special term of the Supreme Judicial Court, within and for the County of Essex," on the third Tuesday of July, in the year of our Lord one thousand eight hundred and thirty.

The Jurors for the said Commonwealth upon their oath present, that John Francis Knapp, of Salem, in the county of Essex, mariner, not having the fear of God before his eyes but being moved and seduced by the instigation of the devil, on the sixth day of April, in the year of our Lord one thousand eight hundred and thirty, with force and arms, at Salem aforesaid, in the County aforesaid, in and upon one Joseph White, in the peace of the said Commonwealth then and there being, feloniously, wilfully and of his malice aforethought, did make an assault; and that he the said John Francis Knapp, with a certain deadly weapon made of hard wood, and loaded in the head thereof with lead, called a bludgeon, of the value of twenty cents, which he the said John Francis Knapp in his right hand then and there had and held, the aforesaid Joseph White in and upon the left side of the forehead, extending over the left temple of him the said Joseph White then and there feloniously, wilfully and of his malice aforethought did strike, penetrate, wound and fracture, giving to the said Joseph White, then and there, with the bludgeon aforesaid, in and upon the left side of the forehead, extending over the left temple of him the said Joseph White one mortal wound of the length of three inches, and of the width and depth of two inches; of which said mortal wound the aforesaid Joseph White then and there instantly died; and so the jurors aforesaid, upon their oath aforesaid, do say, that the said John Francis Knapp, him the said Joseph White in manner and by the means aforesaid, feloniously, wilfully and of his malice aforethought, did kill and murder; against the peace of the Commonwealth aforesaid, and contrary to the form of the statute, in such case made and provided. And the jurors aforesaid, upon their oath aforesaid, do further present, that George Crowninshield, of Danvers, in the county aforesaid, machinist, and Joseph Jenkins Knapp junior, of Wrentham, in the county aforesaid, mariner, before the felony and murder aforesaid, in the manner and by the means aforesaid, was done and committed, to wit, on the second day of April, in the year aforesaid, with force and arms at Salem aforesaid, in the County aforesaid, feloniously, wilfully and of their malice aforethought, did counsel, hire and procure the said John Francis Knapp, the felony and murder aforesaid, in manner and by the means aforesaid, to do and commit; against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid upon their oath aforesaid do further present, that the said John Francis Knapp, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the sixth day of April, in the year of our Lord one thousand eight hundred and thirty, with force and arms at Salem aforesaid, in the County aforesaid, in and upon one Joseph White, in the peace of the said Commonwealth, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault; and that he the said John Francis Knapp, with a certain deadly weapon called a dirk, of the value of fifty cents, which he the said John Francis Knapp in his right hand, then and there had and held, the aforesaid Joseph White, in and upon the left side of the body, and in and to the heart of him the said Joseph White, then and there feloniously, wilfully and of his malice aforethought, did strike, penetrate, stab and wound, giving to the said Joseph White then and there with the dirk aforesaid, in and upon the left side of the body and in and to the heart of him the said Joseph White, several mortal wounds and stabs half an inch in length, and a quarter of an inch in width, and six

inches in depth, of which said several mortal wounds and stabs he the said Joseph White then and there instantly died ; against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that before the felony and murder aforesaid, in manner and form last aforesaid, was done and committed, to wit, on the second day of April, in the year of our Lord aforesaid, the aforesaid Joseph Jenkins Knapp junior, and George Crowninshield, with force and arms, at Salem aforesaid, in the county aforesaid, feloniously, wilfully, and of their malice aforethought, did counsel, hire and procure the said John Francis Knapp the felony and murder aforesaid, in the manner and by the means last aforesaid, to do and commit :—against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that one Richard Crowninshield junior, late of Danvers, in the county aforesaid, machinist, and John Francis Knapp, of Salem aforesaid, in the county aforesaid, mariner, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, on the sixth day of April, in the year aforesaid, with force and arms at Salem aforesaid, in the County aforesaid, in and upon one Joseph White, in the peace of the said Commonwealth, then and there being, feloniously, wilfully, and of their malice aforethought, did make an assault, and he the said Richard Crowninshield junior, with a certain deadly weapon, made of hard wood, and loaded with lead in the head thereof, called a bludgeon, of the value of twenty cents, which he, the said Richard Crowninshield junior in his right hand then and there had and held, and upon the left side of the forehead, over the left temple of him the said Joseph White, then and there feloniously, wilfully and of his malice aforethought, did strike, penetrate, wound and fracture, giving to the said Joseph White, then and there, with the bludgeon aforesaid, in and upon the left side of the forehead, over the left temple, of him the said Joseph White, one mortal wound, of the length of three inches and of the width and depth of two inches ; of which said mortal wound he the said Joseph White, then and there instantly died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said Richard Crowninshield junior, him the said Joseph White, then and there, in manner and form last aforesaid, feloniously, wilfully and of his malice aforethought, did kill and murder, against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that afterwards, to wit, on the fifteenth day of June, in the year aforesaid, the said Richard Crowninshield junior, with force and arms, at Salem aforesaid, in the county aforesaid, as a felon of himself, feloniously, wilfully and of his malice aforethought, did kill and murder himself, so that he the said Richard Crowninshield junior, cannot be further proceeded against or held to answer for the felony and murder last aforesaid.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the said John Francis Knapp, at the time the said felony and murder in manner and form last aforesaid, was done and committed, feloniously, wilfully and of his malice aforethought, was then and there present, aiding and abetting the said Richard Crowninshield junior, the felony and murder of the said Joseph White in the manner and by the means last aforesaid, to do and commit. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said John Francis Knapp, the aforesaid Joseph White then and there in the manner and form last aforesaid, feloniously, wilfully and of his malice aforethought, did kill and murder, against the peace of the Commonwealth aforesaid and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that Joseph Jenkins Knapp junior aforesaid, and George Crowninshield aforesaid, before the felony and murder of the said Joseph White, in manner and form last aforesaid, was done and committed, to wit, on the second day of April in the year aforesaid, with force and arms, at Salem aforesaid, in the county aforesaid, feloniously, wilfully and of their malice aforethought, did counsel, hire and procure the said Richard Crowninshield junior, and the said John

Francis Knapp, the felony and murder aforesaid, in the manner and form last aforesaid, to do and commit; against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

A true bill—

EBEN'R SHILLABER, *Foreman.*

PEREZ MORTON, *Attorney General.*

A true copy as on file—

Attr. JOHN PRINCE, *JUN. Cler.*

To this indictment they severally pleaded "NOT GUILTY." And at the request of John Francis Knapp and Joseph Jenkins Knapp, *Franklin Dexter* and *William H. Gardner, Esquires*, of Boston, were assigned to them as Counsel; and *Samuel Hoar, Esq.* of Concord, and *Ebenezer Shillaber, Esq.*, of Salem, were assigned to George Crowninshield as Counsel, at his request.

Tuesday, July 27, was assigned for the trial.

The prisoners desired separate trials, and if any other Indictment had been found, requested that it might be read to them.

Another Indictment was then read, charging Richard Crowninshield, junior, as principal, and setting forth his death by suicide, and alleging that John F. Knapp, Joseph J. Knapp, jr. and George Crowninshield, were accessories before the fact.

After this Indictment was read and before any plea was recorded, *Mr. Hoar* suggested to the Court, that it might be doubtful whether the general plea of not guilty, could be received to both indictments at the same time. He said he was not sure that the general plea was not the only one, but requested a little time for investigation.

The CHIEF JUSTICE observed, that he knew of no defence which might not be given in evidence under the general issue, but that the Indictment might lie, without entering any plea at present.

TUESDAY, JULY 27.

The Court met at 9 A. M. agreeably to adjournment—present, Judges PUTNAM, WILDE and MORTON. As soon as the Court was opened, HON. LEVERETT SALTONSTALL, President of the Essex Bar, rose, and addressed the Court as follows :

" May it please your Honors :

Since the adjournment of this Court, an event has taken place, which fills our hearts with sorrow, and will be felt throughout the Commonwealth, as a great public calamity. I need not more distinctly allude to the death of the beloved, the honored, the venerated CHIEF JUSTICE, whom we have been accustomed to see presiding here—who has so many years been an ornament to this bench. A few days since, we beheld him in the seat he has so long filled with the highest reputation—we heard from him a charge to the Grand Jury, distinguished for its clear, thorough and able exposition of the law in relation to the important subjects which were to come under their consideration, and for its pertinent and forcible instructions to them upon their duty. We saw him preside with his accustomed ease and dignity. Only four days since, we saw him in this place, apparently in perfect health, in the full enjoyment of all his bodily and mental faculties, and displaying his admirable wisdom and discretion in the discharge of his official duties. By a sudden, a striking, a solemn dispensation of Divine Providence, he has been removed, and the places which knew him here, will know him no more.

Under these circumstances, the members of the Bar of Essex, feeling deeply a bereavement so sudden, have, in concurrence with our learned brethren from other Counties, who are honoring this Court with their presence, thought that this afflictive event should not pass unnoticed here, in this scene of his last official, professional labors. They have adopted resolutions expressive of their veneration of the character of the deceased, and their grief at his loss, and have requested me to offer them to the notice of this Court, and to ask respectfully that they may be placed on their record, and that this Court would adjourn in consequence of this bereavement, which at present occupies all our thoughts. This duty I perform with melancholy satisfaction, in testimony of our affectionate respect to his memory, which is entitled to all respect from the community, to whom his best services have been always devoted.

It would not become me at this time, in this public place, to undertake to delineate minutely the character of the deceased before those who have so long been associated with him in his official duties and in social intercourse, who knew his worth so well, by whom he was so much beloved and respected—who will deeply deplore his death—to whose feelings it would be more grateful to contemplate the virtues of their eminent friend in the stillness of retirement, than to listen to any public eulogium, however just.

A great man has fallen. The late Chief Justice has held the most important office in the Commonwealth a longer period than any of his predecessors, having been more than twenty-four years a judge, and more than sixteen years the presiding justice of the Court, and with a constantly increasing reputation and usefulness. He was an associate of distinguished men who have gone before him—of the *learned, able and upright Chief Justice DANA, whose long and useful administration in this

* Sketch of the character of Chief Justice Parsons, by Judge Parker.

Court ought to be remembered with gratitude"—of SEDGWICK and SAWALL—above all, of the illustrious PARSONS, who relied much on his learning, and his sound and correct judgment. Fortunate will it be for his fame, if as just and beautiful a tribute should be offered to his character, as he bestowed on that of his great predecessor.

It is unnecessary for me to speak of his qualifications for his high trust, to those who have been his associates in office. Feeling deeply its importance, his great object was to fill with respectability and usefulness, so conspicuous a station. Though he always took a lively interest in whatever interested the community, every thing else was subordinate to the prompt and faithful discharge of his official duty. To this he was devoted. His labors were almost unremitted, and probably hastened the event which we now so deeply lament.

Few men have possessed higher qualifications for the office he filled, and the judicial career of few has been marked by deeper traces of wisdom and learning. Labored eulogium of the deceased is not necessary—he has himself erected a memorial to his fame, more durable than marble. His legal decisions will remain, a proud monument to his memory—a monument of his great learning, his patient investigation, his clear and discriminating mind, his forcible and logical reasoning, which amounted almost to demonstration, of his perspicuous and classical style, and of the great result of his labors and his life—the settling the law on the sure and broad foundation of justice and equity, which was his great aim.

In that important and difficult situation, a *Nisi Prius* Judge, he conducted the business of the Court with great ease to himself, and satisfaction to the Bar and the suitors. The younger members of the profession, and those of us not young, whose admission to the bar of this Court was under him, will never cease to remember that kindness and urbanity which encouraged us to persevere in our course.

But eminent as he was as a magistrate, it is as a man we shall most love to contemplate him. In private life and manners, he was pure and faultless—So cheerful, social, benevolent, affectionate, and truly liberal, and yet never for a moment losing sight of the true dignity of his high office—for true dignity, the dignity of the Chief Justice did not depend on the artificial aids of ceremonious etiquette or solemn reserve. He loved to diffuse happiness around him. His frank and ingenuous disposition and temper irradiated the whole circle, which he cheered by his presence. We saw the dignified and learned judge, displaying the utmost simplicity of manners, and purity of heart and life. But he has gone—leaving to his family the rich inheritance of a spotless fame, and to the Commonwealth, the learning, labor and wisdom of a long judicial life. In the midst of his labors and his usefulness, he is called from us, but we trust he is called to his reward in a better world. While we were expecting the aid of his learning and experience, in the important trials before us, he is suddenly removed from all earthly scenes! The loss of such a man is incalculable.

But we will not repine at the dispensation, however severe. Let us rather be grateful for the rich blessing we have so long been permitted to enjoy. Let us be grateful for his brilliant and useful judicial career, and that he has done so much honor to the Commonwealth, over whose highest tribunal he has so long presided.

Above all, let us imitate his devotion to duty, his deep sense of responsibility, his christian faith and piety, that when the summons shall come to us, we also may be found ready.

With these remarks upon the melancholy event which has vacated the highest seat on this bench, the proceedings of the Bar are respectfully submitted to the Court."

At a meeting of the members of the Essex Bar, held at the Court-House, during the Special Term of the Supreme Judicial Court, July 27, 1880,

Resolved, That the members of this Bar, deeply impressed by the

solemn dispensation of Divine Providence, in the sudden removal by death of Chief Justice Parker, from the Bench of the Supreme Court, since its recent adjournment, would do injustice to the feelings of their hearts, if they refrained from a public expression of the profound sentiments of respect and veneration they entertain for his private and official character, as well as of their strong emotions of sorrow for the bereavement sustained by the Bar, the Bench, and the whole Commonwealth. The purity and integrity of his private life and manners, his various acquirements and extensive learning, his public services and arduous labors, in expounding the laws, during a Judicial career of twenty-four years, have secured for his memory and name, public gratitude and affectionate remembrance. While we deeply lament that he has been thus suddenly removed from the community, his friends, and his family, in the full vigor of his faculties, in the maturity of his wisdom, and at the height of his usefulness, we are consoled by the recollection that he has been faithful in his day and generation, and has by his labors conferred lasting benefits upon posterity.

Resolved, That the members of this Bar, in token of respect for his memory, will, during the present term of this Court, wear the usual badge of mourning.

Resolved, That the President of this Bar be requested to communicate these Resolutions to the Honorable Justices of this Court, with our request that the same may be entered on the Records thereof, and further that this Court may be adjourned to such time as the Court may be pleased to order.

By order of the Bar.

EBEN'R SHILLABER, Sec'y.

Immediately after Mr. SALTONSTALL took his seat, PEREZ MORTON, Esq. the venerable Attorney General, addressed the Court in the following terms:

"May it please your Honors,

"It is with a degree of melancholy satisfaction that I express my sincere belief, that these resolutions of the Bar of Essex would be cordially accorded to by every member of the Bar in every County of the Commonwealth; as well as to every sentiment contained in the very able and justly merited introduction.

"Believing that this deeply afflicting event will render your Honors indisposed to proceed to the important business of the County at this time—and knowing that it is the disposition and desire of the Gentlemen of the Bar, that the interesting trials now pending, should for the present be postponed, I venture to move, in conformity to the wishes of the Bar of Essex, that this Court now adjourn to such future day as may best suit the convenience of your Honors."

Judge PUTNAM, senior Justice of the Supreme Court, made the following reply:

"The surviving members of the Court reciprocate, with deep sensibility, the affectionate address of the members of the Bar—alike honorable to them and respectful to the memory of our deplored Chief.

"The community may imagine, but we know and feel the loss which words cannot express.

"He was taken away in the midst of his intellectual strength and judicial labours.—But a few hours have passed since he commenced the immensely important business which has called us together, with a charge to the Grand Jury, clear and impartial as was his great mind. We trusted that he would have led and guided this momentous business to a just result.

"But Almighty God, in his inscrutable Providence, hath otherwise decreed.

"Let us pause—to gather up our depressed spirits—imploing the

Divine assistance in the performance of the duties which may devolve upon us."

The Resolutions of the Bar were then ordered to be entered on the records of the Court, when the Court was adjourned to Tuesday next, the 3d of August, at 9 o'clock, A. M. Both the Grand and Traverse Juries were directed to appear at that time.

TUESDAY MORNING, AUGUST 3.

Present, PUTNAM, WILDE and MORTON, *Justices*.

The Attorney General entered a nolle prosequi upon the Indictment which had been found against the prisoners, upon which they had been arraigned; and the following Indictment was returned by the Grand Jury:

COMMONWEALTH OF MASSACHUSETTS.

Essex, ss.—At a special term of the Supreme Judicial Court, begun and holden at Salem, within and for the said county of Essex, on the third Tuesday of July, in the year of our Lord one thousand eight hundred and thirty, by virtue of an act of the Legislature of the said Commonwealth, entitled "An Act to provide a Special Term of the Supreme Judicial Court, within and for the County of Essex."

The Jurors for the said Commonwealth upon their oath present, that John Francis Knapp, of Salem, in the county of Essex aforesaid, mariner, not having the fear of God before his eyes but being moved and seduced by the instigation of the devil, on the sixth day of April, in the year of our Lord one thousand eight hundred and thirty, with force and arms, at Salem aforesaid, in the County aforesaid, in and upon one Joseph White, in the peace of the said Commonwealth then and there being, feloniously, wilfully and of his malice aforethought, did make an assault; and that he the said John Francis Knapp, with a certain deadly weapon made of hard wood, and loaded with lead in the head thereof, called a bludgeon, of the value of twenty cents, which he the said John Francis Knapp in his right hand then and there had and held, the aforesaid Joseph White, in and upon the left side of the forehead, over the left temple of him the said Joseph White, then and there feloniously, wilfully, and of his malice aforethought did strike, penetrate, wound and fracture, giving to the said Joseph White, then and there, with the bludgeon aforesaid, in and upon the left side of the forehead, extending over the left temple of him the said Joseph White, one mortal wound of the length of three inches, and of the width and depth of two inches; of which said mortal wound the aforesaid Joseph White then and there instantly died; and so the jurors aforesaid, upon their oath aforesaid, do say, that the said John Francis Knapp, the aforesaid Joseph White, then and there, in manner and by the means aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder; against the peace of the Commonwealth aforesaid, and contrary to the form of the statute, in such case made and provided. And the jurors aforesaid, upon their oath aforesaid, do further present, that Joseph Jenkins Knapp jr. of Wenham, in the county aforesaid, mariner, and George Crowninshield, of Danvers, in the county aforesaid, machinist, before the said felony and murder was committed in manner and form aforesaid, to wit, on the second day of April, in the year aforesaid, with force and arms at Salem aforesaid, in the County aforesaid, feloniously, wilfully and of their malice aforethought, did counsel, hire and procure the said John Francis Knapp, the felony and murder aforesaid, in manner and form aforesaid, to do and commit; against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid upon their oath aforesaid do further present, that the said John Francis Knapp, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the sixth day of April, in the year aforesaid, with force and arms at Salem aforesaid, in the County aforesaid, in and upon one Joseph White, in the peace of the said Commonwealth, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault; and that he the said John Francis Knapp, with a certain deadly weapon called a dirk, of the value of fifty cents, which

he the said John Francis Knapp in his right hand, then and there had and held, the aforesaid Joseph White, in and upon the left side of the body, and in and to the heart of him the said Joseph White, then and there, feloniously, wilfully and of his malice aforethought, did strike, penetrate, stab and wound, giving to the said Joseph White, then and there, with the dirk aforesaid, in and upon the left side of the body, and in and to the heart of him the said Joseph White, several mortal wounds and stabs, half an inch in length, a quarter of an inch in width, and six inches in depth, of which said several mortal stabs and wounds he the said Joseph White then and there instantly died; and so the jurors aforesaid, upon their oath aforesaid, do say that the said John Francis Knapp, the aforesaid Joseph White, then and there in manner and form last aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder; against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that Joseph Jenkins Knapp jr. aforesaid, and George Crowninshield aforesaid, before the said felony and murder was committed, in manner and form last aforesaid, to wit, on the second day of April, in the year aforesaid, with force and arms, at Salem aforesaid, in the county aforesaid, feloniously, wilfully, and of their malice aforethought, did counsel, hire and procure the said John Francis Knapp, the felony and murder aforesaid, in manner and form last aforesaid, to do and commit—against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that one Richard Crowninshield jr. late of Danvers, in the County aforesaid, in and upon one Joseph White, in the peace of the said Commonwealth, but then and there being, feloniously, wilfully and of their malice aforethought, did make an assault; and that he the said Richard Crowninshield junior, with a certain deadly weapon called a bludgeon, of the value of twenty cents, which he, the said Richard Crowninshield junior in his right hand then and there had and held, in and upon the left side of the forehead, over the left temple of him the said Joseph White, then and there feloniously, wilfully and of his malice aforethought did strike, penetrate, wound and fracture, giving to the said Joseph White, then and there, with the bludgeon aforesaid, in and upon the left side of the forehead, over the left temple, of him the said Joseph White, one mortal wound, of the length of three inches and of the width and depth of two inches; of which said mortal wound he the said Joseph White, then and there instantly died; and that he the said John Francis Knapp, then and there, feloniously, wilfully and of his malice aforethought, was present, aiding and abetting the said Richard Crowninshield junior, the felony and murder aforesaid, in manner and form last aforesaid to do and commit; and so the jurors aforesaid, upon their oath aforesaid, do say, that the said Richard Crowninshield junior, and the said John Francis Knapp, the aforesaid Joseph White, then and there, in manner and form last aforesaid, feloniously, wilfully and of thier malice aforethought, did kill, and murder, against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that afterwards, to wit, on the fifteenth day of June in the year aforesaid, he the said Richard Crowninshield junior, with force and arms, at Salem aforesaid, in the County aforesaid, as a felon of himself, feloniously, wilfully and of his malice aforethought, did kill and murder himself, so that he the said Richard Crowninshield junior cannot now be further proceeded against, or held to answer for the felony and murder of the said Joseph White last aforesaid.

And the jurors aforesaid, upon their oath aforesaid, do further present, that Joseph Jenkins Knapp junior aforesaid, and the said George Crowninshield, before the said felony and murder, in manner and form last aforesaid, was done and committed, to wit, on the second day of April in the year aforesaid, with force and arms, at Salem aforesaid, in the county aforesaid, feloniously, wilfully and of their malice aforethought, did counsel, hire and procure the said Richard Crowninshield junior, and the said John Francis Knapp, the felony and murder last aforesaid, to do and commit; against the peace of the Commonwealth aforesaid and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that one Richard Crowninshield junior, late of Danvers, in the county aforesaid, machinist, and John Francis Knapp aforesaid, not having the fear of God be-

fore their eyes, but being moved and seduced by the instigation of the devil, on the sixth day of April, in the year aforesaid, with force and arms at Salem aforesaid, in and upon one Joseph White, in the peace of the said Commonwealth, then and there being, feloniously, wilfully, and of their malice aforethought, did make an assault, and that he the said Richard Crowninshield junior, with a certain deadly weapon, called a dirk, of the value of fifty cents, which he the said Richard Crowninshield junior, in his right hand, then and there had and held, in and upon the left side of the body, and in and to the heart of him the said Joseph White, then and there feloniously, wilfully and of his malice aforethought, did strike, penetrate, stab and wound, giving to said Joseph White, then and there, with the dirk aforesaid, in and upon the left side of the body, and in and to the heart, of him the said Joseph White, several mortal wounds and stabs, each of the length of half an inch, and of the width of one quarter of an inch, and of the depth of six inches, of which said several mortal wounds and stabs, he the said Joseph White, then and there instantly died; and that he the said John Francis Knapp, then and there feloniously, wilfully, and of his malice aforethought, was present, aiding and abetting the said Richard Crowninshield junior, the felony and murder last aforesaid in manner and form last aforesaid, to do and commit; and so the jurors aforesaid, do say, that the said Richard Crowninshield junior, and the said John Francis Knapp, the aforesaid Joseph White, then and there in manner and form last aforesaid, feloniously, wilfully, and of their malice aforethought, did kill and murder, against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that afterwards, to wit, on the fifteenth day of June, in the year aforesaid, the said Richard Crowninshield junior, with force and arms, at Salem aforesaid, in the county aforesaid, as a felon of himself, feloniously, wilfully and of his malice aforethought, did kill and murder himself, so that he the said Richard Crowninshield junior, cannot now be further proceeded against or held to answer for the felony and murder last aforesaid.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the aforesaid Joseph Jenkins Knapp junior, and the said George Crowninshield, before the said felony, and murder in manner and form last aforesaid, was done and committed, to wit, on the second day of April, in the year aforesaid, with force and arms, at Salem aforesaid, in the county aforesaid, feloniously, wilfully, and of their malice aforethought, did counsel, hire, and procure the said Richard Crowninshield junior, and the said John Francis Knapp, the felony, and murder last aforesaid, in manner and form last aforesaid, to do and commit against the peace of the Commonwealth aforesaid, and contrary to the form of the statute in such case made and provided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that a certain person (whose name to the jurors aforesaid is yet unknown) and John Francis Knapp aforesaid, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, on the sixth day of April, in the year aforesaid, with force and arms, at Salem aforesaid, in the county aforesaid, in and upon Joseph White, in the peace of the said Commonwealth, then and there being, feloniously, wilfully, and of their malice aforethought, did make an assault, and that the said person unknown, with a certain deadly weapon called a bludgeon, and of the value of twenty cents, which he the said person unknown, in his right hand then and there had, and held, the aforesaid Joseph White, in and upon the left side of the forehead over the left temple of him the said Joseph White, then and there feloniously, wilfully and of his malice aforethought, did strike, penetrate, wound and fracture, giving to the said Joseph White, then and there, with the bludgeon aforesaid, in and upon the left side of the forehead over the left temple of him the said Joseph White, one mortal wound of the length of three inches, and of the width and depth of two inches; of which said mortal wound he the said Joseph White then and there instantly died; and that he, the said John Francis Knapp, then and there feloniously, wilfully, and of his malice aforethought, was present aiding and abetting the said person, (to the said Jurors unknown,) the felony and murder last aforesaid to do and commit: and so the Jurors aforesaid, upon their oath aforesaid, do say, that the said person (to the Jurors aforesaid unknown,) and the said John Francis Knapp, the aforesaid Joseph White, in manner and form last aforesaid, feloniously, wilfully, and of their malice aforethought, did kill and murder, against the peace of the Commonwealth aforesaid, and contrary to the form of the Statute in such case made and provided.

And the Jurors aforesaid, upon their oath aforesaid, do further present, that the aforesaid Joseph Jenkins Knapp, junior, and the aforesaid George Crowninshield, before the felony and murder last aforesaid was done and committed, to wit, on the second day of April, in the year aforesaid, in the County aforesaid, feloniously, wilfully, and of their malice aforethought, did counsel, hire, and procure the said person (to the Jurors aforesaid unknown,) and the said John Francis Knapp, the felony and murder last aforesaid, in the manner and form last aforesaid, to do and commit, against the peace of the Commonwealth aforesaid, and contrary to the form of the Statute in such case made and provided.

And the Jurors aforesaid, upon their oath aforesaid, do further present, that a certain person (whose name to the Jurors aforesaid is yet unknown) and John Francis Knapp aforesaid, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, on the sixth day of April, in the year aforesaid, with force and arms, at Salem aforesaid, in the County aforesaid, in and upon Joseph White, in the peace of the said Commonwealth then and there being, feloniously, wilfully, and of their malice aforethought, did make an assault; and that the said person to the Jurors aforesaid unknown, with a certain deadly weapon called a dirk, of the value of fifty cents, which he, the said person to the Jurors aforesaid unknown, in his right hand then and there had and held, the aforesaid Joseph White, in and upon the left side of the body and in and to the heart of him, the said Joseph White, then and there feloniously, wilfully, and of his malice aforethought, did strike, penetrate, stab and wound, giving to the said Joseph White, then and there, with the dirk aforesaid, in and upon the left side of the body, and in and to the heart of him, the said Joseph White, several mortal wounds and stabs, each of the length of half an inch, and of the width of a quarter of an inch, and of the depth of six inches, of which said several mortal wounds and stabs, he the said Joseph White, then and there instantly died; and that he, the said John Francis Knapp, then and there, feloniously, wilfully, and of his malice aforethought, was present, aiding and abetting the said person, (to the said Jurors unknown,) the felony and murder last aforesaid, in manner and form last aforesaid, to do and commit. And so the Jurors aforesaid, upon their oath aforesaid, do say, that the said person, (to the Jurors aforesaid unknown,) and the said John Francis Knapp, then and there, in manner and form last aforesaid, the said Joseph White feloniously, wilfully, and of their malice aforethought, did kill and murder, against the peace of the Commonwealth aforesaid, and contrary to the form of the Statute in such case made and provided.

And the Jurors aforesaid, upon their oath aforesaid, do further present, that the aforesaid Joseph Jenkins Knapp, junior, and the said George Crowninshield, before the felony and murder last aforesaid, was done and committed, to wit: on the second day of April, in the year aforesaid, with force and arms, at Salem aforesaid, in the County aforesaid, feloniously, wilfully, and of their malice aforethought, did counsel, hire, and procure the said person, (to the said Jurors unknown,) and the said John Francis Knapp, the felony and murder last aforesaid, in manner and form last aforesaid, to do and commit, against the peace of the Commonwealth aforesaid, and contrary to the form of the Statute in such case made and provided.

A true Bill, EBENEZER SHILLABER, *Foreman*.
 PEREZ MORTON, *Attorney General*.
 A true copy as on file—

Attr. JOHN PRINCE, *Jun. Cler.*

Upon which they were arraigned, and John Francis Knapp pleaded *Not Guilty*.

Before the others pleaded, *Mr. Dexter* suggested that they were indicted only as accessaries, and therefore were not obliged to plead before the conviction of a principal.

THE COURT said they need not now plead.

The *Attorney General* then moved that *Mr. Webster* might be permitted by the Court to take part in the cause on behalf of the government, stating briefly the reasons.

THE COURT said there could be no objection at all.

Franklin Dexter and *William H. Gardiner, Esquires*, of Boston, were assigned as Counsel for the prisoner, at his request.

Counsel for the Commonwealth—

Hon. *Perez Morton*, Attorney General;

" *Daniel Davis*, Solicitor General;

" *Daniel Webster*.

Joseph J. Knapp, jr. and George Crowninshield were then remanded.

Mr. *Dexter* said, before the trial proceeded, he wished to understand whether the *nolle prosequi* which had just been entered, could be struck off hereafter, and the prisoners tried upon that indictment?

PUTNAM J. Certainly that cannot be done.

Mr. *Hoar* inquired if the second indictment, read a few days since, had been *nol. pros'd.*

Webster. If there is any other indictment against the prisoner, it is matter of record, and Counsel may have access to it.

Gardiner. Before the jury is impannelled, I have a motion to make. When the prisoner was arraigned on the former indictment, application was made by his Counsel to have a list of the witnesses examined before the Grand Jury, endorsed upon the indictment, according to the English practice. It was answered by the Solicitor General, that it was our practice to return a list of the witnesses to the Clerk's Office; and he was understood to say that such a list would be returned, that the Counsel might know who were to be witnesses in each case. Such a list has not been furnished. I have a letter addressed to the Attorney and Solicitor General.

Mr. *Webster* objects to the reading of the letter.

THE COURT inquired of Mr. *Gardiner* what was the object of reading the letter.

Gardiner. We wish even at this late hour to be furnished with a list of the witnesses on the part of the Commonwealth. The prisoner has a right to know what witnesses are to be called against him. He may be obliged to send to a great distance for counter testimony, or to procure copies of records.

Atty General. The law does not require a list to be furnished, except in treason. What we stated was, that we filed the names of *all* the witnesses in *all* the cases.

PUTNAM J. The Court did not so understand it. We understood that the Solicitor General promised a list of witnesses for each case separately. It is reasonable that the prisoner should be furnished with such a list. We think it his right.

The jury was then impannelled, as follows:—

Ephraim Annable,	Hamilton,	<i>sworn.</i>
John Ayer, 2d,	Haverhill,	<i>sworn.</i>
George Barker,	Marblehead,	peremptorily challenged.
Joseph Bartlett,	Newbury,	<i>sworn.</i>
Gilbert Barker,	Saugus,	peremptorily challenged.
Robert G. Bennett,	Beverly,	challenged for cause.
Nehemiah Berry,	Lynn,	peremptorily challenged.
Nathaniel Brown,	Salisbury,	<i>sworn.</i>
Issachar Burnham,	Essex,	peremptorily challenged.
Temple Cutler,	Lynn,	peremptorily challenged.
Samuel Dexter,	Gloucester,	challenged for cause.
Nathan Dodge,	Hamilton,	peremptorily challenged.
Joseph Farley,	Ipswich,	challenged for cause.
John Follansbee,	W. Newbury,	challenged for cause.
Samuel Foster,	Manchester,	<i>sworn.</i>
Charles Foster,	Andover,	<i>sworn.</i>
Peter Fryc,	Andover,	challenged for cause.
Isaac Gallop,	Beverly,	challenged for cause.
Smith Gallop,	Wenham,	challenged for cause.
Downing Gentlee,	Wenham,	challenged for cause.

Samuel Gould,	Topsfield,	peremptorily challenged.
Joseph Hooper,	Manchester,	challenged for cause.
Joshua Howard,	Saugus,	<i>sworn.</i>
Jonathan Merrill,	Methuen,	peremptorily challenged.
John Merrill,	Salisbury,	<i>sworn.</i>
William Micklefield,	Salem,	<i>sworn.</i>
Sargent Moody,	Amesbury,	challenged for cause.
James Newhall,	Lynnfield,	peremptorily challenged.
Solomon Nelson,	Rowley,	<i>sworn.</i>
David E. Noyes,	W. Newbury,	peremptorily challenged.
John Page,	Danvers,	peremptorily challenged.
John P. Peabody,	Topsfield,	peremptorily challenged.
Isaac Pearson,	Haverhill,	peremptorily challenged.
Walter Piper,	Newburyport,	peremptorily challenged.
Artemas W. Perley,	Boxford,	peremptorily challenged.
William M. Rollins,	Bradford,	peremptorily challenged.
Andrew Russell,	Ipswich,	peremptorily challenged.
Ichabod B. Sargent,	Amesbury,	<i>sworn.</i>
William Smith,	Lynnfield,	peremptorily challenged.
Benjamin Stone,	Marblehead,	challenged for cause.
John Tenny,	Bradford,	challenged for cause.
Asa Todd,	Gloucester,	<i>sworn.</i>

SOLOMON NELSON, Esq. was appointed by the Court, Foreman of the Jury.

The Clerk then read the Indictment. [See page 14.]

The *Attorney General* then addressed the Jury, as follows:—

Gentlemen of the Jury,

Since the adjournment of the Court, the Counsel for the Government have procured the services of a gentleman pre-eminent at the Bar, to assist in the management of this Cause, and at my request, from his superior physical strength, as well as for his acknowledged supremacy in the powers of mind, he has taken the more arduous duty of closing the Cause, leaving to me the easier one of opening it.

All, who are to take a part on this interesting occasion, have a painful duty to perform. To see a young man, in the vigor of his days, brought to the Bar of his country, to answer for a crime, that implicates his life, however guilty he may appear, will necessarily create feelings of regret, if not of compassion in every beholder of the spectacle. But we ought not to forget, that a faithful discharge of our respective duties, is paramount to every other consideration. Public justice, as well as public safety, requires it at our hands; and so far as my duty requires, I will endeavor to discharge it with fidelity, and so far as yours extends, I feel confident that it will be discharged with candor, firmness, and impartiality.

The charge against the prisoner at the Bar, is for the murder of the late Mr. Joseph White—a murder of no ordinary character—a murder the most cold-blooded, unprovoked, and atrocious that has ever yet stained the annals of our Commonwealth, if not of any other country—a murder in the commission of which every personal security and safety which the Law specially guaranties to the citizen in the asylum of his dwelling-house, and in the recess of his bed-chamber, has been outraged and violated.

It is not to be wondered at that such a crime should have produced an uncommon excitement among the citizens of the place of its atrocity, for who of them could have felt himself safe in retiring to his rest, unless the authors of this abominable murder were detected and punished. And it affords me satisfaction to say, that much credit is due to the Committee of Vigilance, chosen on the occasion, for their unwearied exertions to obtain that end. There is, however, one cause of blame which attaches to their laudable efforts, and that is their having suffered to be made pub-

lie so much of the results of their inquiries; for nothing can be more improper and injurious to the cause of public justice, than editorial remarks on the relation of facts upon untried crimes: but it may be some apology for the Committee that the public mind had become so anxious and so full of inquietude, that it was nearly impossible to withhold most of the various facts, which their investigation had furnished; and we all know the avidity with which editorial paragraphists wish to anticipate public information, upon every interesting occasion.

The perpetrators of this atrocious murder remained, for a long time, veiled in darkness and mystery, notwithstanding the efforts to detect them. The circumstances under which it appeared to have been committed were such as naturally created suspicions against the inmates of the family; for it was found that nothing had been taken away, that no actual violence had been committed in entering the house, that the iron bar, with which the window where the assassin entered was usually fastened, was taken down and carefully placed against the side of the window. I say, these circumstances occasioned a necessary inference to be drawn, that some one, familiarly acquainted with the interior of the house, was either the murderer, or an abettor or accessory to him.

The first suspicion fell upon the son of Mrs. Beckford, who was the niece and housekeeper of the deceased; but on inquiry it was found that he could have no concern in it, not having been in a situation to render it possible.

The breath of scandal, spread, no doubt, as since appears to have been his intention, by the prime instigator of the murder, to cover his own atrocity, imputed this deed of death to the favorite nephew and principal heir of the deceased, Mr. White; but the filial and parental like affection which was known to subsist between this uncle and nephew, the acts of kindness and beneficence of the former, and the grateful attachment of the latter, and, with those who knew the man, the honor and integrity of his mind and heart, so often evinced by the voluntary suffrages of his fellow citizens of the county, soon dissipated this ephemeral slander, leaving, however, on his honorable mind an embittered regret, that any one, for a moment, could suppose him capable of so dark and horrid a crime.

Still, gentlemen, the perpetrators of this heinous offence continued wrapped in secrecy, for although he who did the deed was heretofore indicted for the murder, yet that indictment was found upon circumstantial evidence, and the testimony of a convict from the State Prison, as to those circumstances. But not a conjecture was whispered, that I ever heard, against the real authors of the murder, until a letter was handed to the Committee, under the signature of one GRANT, but really written by Palmer, whom you will have as a witness upon the stand, dated at Belfast, May 12th, postmarked May 13th, directed to J. J. Knapp, not having the addition of junior to it; and, by that means, it was handed to the Committee by the father, for whom it was not intended. We are not now about to give any account of the contents of this letter, but only to say, that in consequence of it, and by some address of management by the Committee, Palmer was arrested at Belfast, as having some concern in the murder, or as having knowledge of the persons who were the perpetrators, and the two Knapps were arrested, charged with being deeply implicated in the fact.

Suffer me here, gentlemen, to pause, and make a moral reflection. This letter of Palmer, and the manner of its falling into the hands of the Committee, I consider as one of those mysterious ways of divine Providence, which lead to the detection of secret murderers; and it may be remarked, as a general truth, that it seems to be the will of Heaven, conformably to its own law, "whose sheddeth man's blood, by man shall his blood be shed," that the secret murderer should not escape detection, and punishment even from a human tribunal, whatever may be his retribution

in the world to come. And not unapt is the language of the great delineator of the human passions, used on a similar occasion, put into the mouth of his Hamlet, whose father had been secretly murdered, and who was, by an ingenious device, endeavoring to detect the murderers, when he says, "Murder, though it have no tongue, will speak with most miraculous organ"—and in that case it did speak, through the stings and goads of conscience of the Queen, his mother.

Gentlemen, a few words more, by way of preliminary, and before I introduce the evidence, as it respects my own conduct in this case, in my official capacity.

After the two Knapps were arrested, at the request of several respectable citizens of Salem, I authorized in writing the Rev. Mr. Colman to receive the free and voluntary disclosures of any one of the individuals charged, without naming any one; and giving him authority to say that on condition of his disclosing the whole truth and nothing but the truth respecting the murder, I would call him as a witness on the trial, and that being a witness, he would have the implied pledge of the Government, not to be prosecuted for that offence. In consequence of this authority, Mr. Colman received the voluntary disclosure of J. J. Knapp, jr. in writing: accordingly, to redeem the pledge on the part of the Government, I have called him before the Grand Jury, at this term, as a witness, to give evidence as he has disclosed: but, by the advice of his Counsel, he refused to testify there, saying he was not bound to criminate himself; but as the inquiry before the Grand Jury may not be considered as calling him as a witness *upon the trial*, I shall, in the course of the examination of the evidence, again call him as a witness, and if he again refuses to testify, every one will acknowledge, that the pledge of the Government will be completely redeemed, and his promised protection will be forfeited, and he must stand on his own original responsibility.

The Counsel for the Government do not confidently expect that the evidence which will be given you, will justify the belief that the prisoner at the bar actually gave the blow on the head, or the stabs in the heart of the deceased, for he, who, it will appear, did the deed, wretched man, like his great prototype, who betrayed the Saviour of the world for thirty pieces of silver, smitten with the stings of conscience, has gone, and hanged himself; though less scrupulous than Judas, he has never returned the wages of his iniquity.

It is, however, altogether immaterial, whether the prisoner at the Bar, actually gave the mortal blows, provided he was present, aiding and abetting the person, who inflicted them. He is charged both ways.

And this naturally brings us to the consideration of the law of Abettments.

By the very ancient common law, before the reign of Henry 4th, of England, he alone who gave the stroke was considered as the *principal* offender, and those who stood by in aid and assistance of him who actually committed the felony, were held to be only accessaries; and these aiders and abettors at the time of the felony, had the same right, that accessaries before the fact now have, that of not being tried till he that struck the blow should be tried and convicted; so that if he who actually committed the murder, died before he was tried and convicted, those who were present, aiding and assisting, could never be tried, and of course escaped punishment. But this principle was found to be so repugnant to the common understanding of mankind, that in the time of Henry 4th, all the judges of both benches concurred in altering that principle of the ancient common law, and settled it more conformably to reason and morality, common sense and public justice, by making the abettor at the fact a principal.

Had these judges advanced one step further towards common sense, and decided, that when he that gave the blow, and he that abetted him had died, or was otherwise not capable of being tried and convicted, the

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accessary before the fact, (the felony or murder being proved,) should be amenable to justice, as for a substantial offence, they would have left their common law much more perfect on this subject than it now is; for in moral turpitude the guilt of him who hires the assassin to do the deed, and absents himself, is of a darker grade, in my apprehension, than his who has the courage to do it.

The celebrated Mr. Peel, in the bill which he brought before the House of Commons, contemplating amendments or alterations of some of the rules of the common law, makes this very case one of the amendments, and constitutes the offence of an accessary before the fact in felony a substantive crime, and triable independently of the principal, under certain conditions.

Whether our statute against murder will not be ruled by this Court to have altered the common law in this respect, as was suggested to be possible in the opening Charge of our lamented Chief Justice at this term, whose afflicting death is so deeply felt, will be tested, if it should ever become necessary in these trials. Permit me here to read his lucid opinion on this point. [See p.p. 5. 6.]

But at present we are considering the case under the principles of the common law, as it now stands, and from the time of Henry 4th, to the present day, the common law is settled, that, as Lord Hale observes,* "all that are present, aiding and assisting, are equally principals with him that gave the stroke, whereof the party died; for though one gave the stroke, yet in interpretation of law, it is the stroke of every person that was present, *aiding and assisting*, and though they are called principals in the second degree, yet they are principals; and therefore if there be an indictment of murder against A., that he feloniously struck B., whereof he died, and that C. and D. were present, aiding and abetting to A. in the felony and murder aforesaid, and A. appears not, but C. and D. appear, they shall be arraigned, and receive their judgment, if convict, though A. neither appears, nor be outlawed. And he further says, if A. be indicted as having given the mortal stroke, and B. and C. as present, aiding and assisting, and upon the evidence it appears that B. gave the stroke, and A. and C. were only aiding and assisting, it maintains the indictment, judgment shall be given against them all, for it is only a circumstantial variance, for it is the stroke of all that were present, aiding and abetting; he cites Maekally's case.

I will read also from 1 East. P. C. §50, §51, to the same point:

"In appeal where several are present at the fact, and one only actually does it, and the others abet him, the Plaintiff may either elect to suppose in his declaration that all did the fact, or shew the special matter. For in these cases all the parties are principals, and the blow of one is in law the blow of all. For which reason an indictment that A. gave the mortal blow, and B., C., and D. were present and abetting, is sustained by evidence, that B. gave the blow, and A., C., and D. were present and abetting. Upon the like indictment, evidence that E., though not named therein, gave the blow, and that A., B., C., and D. were present and abetting, would be sufficient; or even that a person unknown gave the blow." And 1 Hale 440.

You perceive, therefore, Gentleman, that it is altogether immaterial in law, whether the prisoner now on trial gave the mortal blow, or was only aiding and abetting to him who gave it—and that the indictment may charge him either way.

There are three kinds of abetments to felonies.—The first is an abetment at the time the felony is committed, that is, being *present, aiding, and assisting* or *consenting* to him who actually commits the felony; and this constitutes a *principal offender*.

The second is an abetment before the felony is committed, by *counsel*—

* 1. Hale, P. C. 437.

ling, hiring and procuring the felony to be done, and being absent when it is committed, and this constitutes an *accessary before the fact*.

The *third* is an abettor after the felony is committed, and that is harboring, concealing or maintaining the principal offenders or their accessaries before the fact; and this constitutes an *accessary after the fact*.

The prisoner at the bar stands indicted of the first kind of these abettments, that is as a *principal offender*, and if he be not convicted, by the common law as it now stands in England, the accessaries before the fact cannot be tried, and must escape punishment.

It is therefore necessary to consider what, in law, constitutes an abettor at the time the murder is committed; and according to Lord Hale, to make an abettor to a murder a principal in the felony, two things are requisite.

The *first* is, he must be *present*.

The *second* is, he must be *aiding* and *abetting*. I will read you the authorities on both these points. As to the *first*, being present—

"As to the first: if divers persons come to make an affray, &c. and are of the same party, and come into the same house, but are in several rooms of the same house, and one be killed in one of the rooms, those that are of that party, and that came for that purpose, though in other rooms of the same house, shall be said to be present.—*Dalt. cap. 93. p. 241.*

The Lord Dacre and divers others came to steal deer in the park of one *Fulham*. Rayden, one of the company, killed the keeper in the park, the lord Dacre and the rest of the company being in other parts of the park, it was ruled, that it was murder in them all, and they died for it.—*Crompt. 25. a. Dalt. ubi supra, 34 H. 8. B. Coron. 172.*

The like in case of burglary: though some stood at the lane's end or field-gate to watch if any came to disturb them, *Co. P. C. p. 64. 11 H. 4. 13. b.*, yet they are said to be burglars, because present, aiding and assisting to the burglary.

So if A. being present, commands B. to kill C., and he doth it, both are principals.—*13 H. 7. 10. a.*

If many be present, and one only gives the stroke, whereof the party dies, they are all principals, if they came for that purpose.—*21 E. 4. 71. a.*"
—*1 Lord Hale, 439. 4 Hawk. 201, 202.*

As to the *second* point:—

"And consonant to this is Mr. Dalton, p. 241, in these words: "Note also, that if divers persons come in one company, to do any unlawful thing, as to kill, rob, or beat a man, or to commit a riot, or to do any other trespass, and one of them, in doing thereof, kills a man, this shall be adjudged murder in them all that are present, of that party, abetting him, and consenting to the act, or ready to aid him, although they did but look on."—*1 Hale, 441.*

"When the law requireth the presence of the accomplice at the perpetration of the fact, in order to render him a principal, it doth not require a strict actual immediate presence, such a presence as would make him an eye or ear-witness of what passeth.

"Several persons set out together, or in small parties, upon one common design, be it murder or other felony, or for any other purpose unlawful in itself, and each taketh the part assigned him; some to commit the fact, others to watch at proper distances and stations, to prevent a surprise, or to favour, if need be, the escape of those who are more immediately engaged. They are all, provided the fact be committed, in the eye of the law present at it. For it was made a common cause with them, each man operated in his station at one and the same instant towards the same common end; and the part each man took tended to give countenance, encouragement, and protection to the whole gang, and to insure the success of their common enterprize."—*Foster, 349.*

Which is, if he be *consenting* to the felony, or *ready to aid* him who does

it, although he does but look on. If they have the same object in view, if they came for the same purpose. It is the *intention of the mind* therefore, that constitutes the abettor to a felony, if he be present in contemplation of law, though he do nothing.

And now gentlemen, let us hearken to the testimony ; and the Government are first bound to prove the *corpus delicti*, that is, that the deceased Mr. White came to his death by the hand of external violence.

Having proved the death by the hand of external violence, we shall then proceed to prove to you that the death was effected by a wicked conspiracy and combination of individuals, of which the prisoner at the bar was one, to destroy the life of the deceased, and to this point, we shall offer Joseph Jenkins Knapp, jr., to redeem the pledge of the Government given for his protection, on condition of his testifying the whole truth and nothing but the truth on this trial. He refuses to testify. And now Gentlemen, every one must be satisfied that the pledge of the Government, given for his protection, is fully redeemed ; he has now forfeited that proffered protection, and stands accused as an accessory before the fact to this murder—he has an unquestionable right to take the stand he has, for the Constitution of the Commonwealth provides, that *no subject shall be compelled to accuse, or furnish evidence against himself*.

As we cannot prove this vile conspiracy and combination to murder the deceased by the disclosure of this accomplice in the crime, by the blessing of God we will prove it by other testimony in the case.

And, if in the opinion of the Court we shall be able to shew that such a conspiracy existed, another principle of law will be relied on, that when a conspiracy to do an unlawful act is proved, the acts of any one of the conspirators, done in effecting the object of their combination may be given in evidence against any other of the conspirators. Phillips on Evidence, [76.]

ATTORNEY GENERAL. After proving the murder, I shall move that J. J. Knapp, jr. be brought into Court as a witness.

PUTNAM, J. I have no objection. He may be sent for while the witnesses to the facts of the murder are examined.

MR. GARDINER. Something was said in opening, by the Attorney General, about a *view*. The Counsel for the prisoners wish for such a view by the Jury, of Mr. White's house and the premises.

PUTNAM, J. We once refused it in Boston, and we see no reason for granting it now. There are many practical inconveniences attending it. We know not what impressions and influences the Jury may receive while out of doors.

The Court then ordered J. J. Knapp, jr. to be brought in, but the Counsel for the prisoners objecting, he was ordered to be kept in some convenient place until wanted.

Benjamin White was then sworn, and testified : He was a servant of Capt. White. On Wednesday morning, 7th of April, about 6 o'clock, I came down into the kitchen, and on opening the shutters of the eastern window, saw the back window of the North Eastern room open, and a plank put up to the window. I went into the front room, but saw no appearance of any one having been there. I then went to Miss Kimball's (the maid servant's) room, and told her, and then went into Mr. White's chamber at the back door, and saw that his door, opening into the front entry, was open, and that he was murdered. I then went down, and told Miss Kimball that Mr. White was gone. His face, when I first saw him, was very pale—the bed-clothes were turned down. I think I saw some blood upon the side of the bed, or on his flannel. I then went to Mr. Mansfield's door, who lived opposite, and knocked—then to Mr. Deland's, then to Dr. Johnson's, and then to Mr. Stephen White's. About three weeks before the murder, Stephen Stratten came into the yard, between 10 and 11 o'clock in the evening, and asked me if I knew who that man was—

Mr. Dexter objected to this conversation, and the Court said it was not evidence.

On the afternoon before the murder, I was at the farm, in Beverly, with Mr. White—we were there several hours; came home a little before night, about 5 o'clock.

The window which I found open, was up 21 or 22 inches—the shutter, which opened very hard, was open some way, and it was sometimes left open two or three days together—the window was fastened by a screw, and the shutter by a bar. I found this bar standing by the right side of the window.

Mrs. Beckford is a niece of Capt. White, and lived with him. She is a middle aged lady. Miss Kimball, a domestic, and myself, were all who lived in the house with Mr. White—his chamber was over the South-West parlor, (the keeping room)—the house faces South, on Essex-street, is three stories high—Mr. White's chamber has two doors, one opening from the end entry, and the other from the front entry—it has also four windows, two Southern, one Western, and one Northern looking into the yard.

Mr. Webster then called J. P. Saunders, Esq. the Surveyor, who swore that the plans of the house and premises were correct, Mr. Webster then explained these to the Jury.

(Witness continued.) I was at the kitchen window when I saw the back parlor window up—that room was very little used. The rooms commonly used were the S. W. parlor—Mr. W's chamber over that—the maid's over Mr. W's. Mrs. Beckford's chamber over the kitchen, and mine over Mrs. B's. The chambers on the eastern side were unoccupied, except when strangers were at the house. Mrs. B. was at Wenham on the night of the murder—she went away about 12 o'clock that day. The window which was opened, and at which the plank was put, was the one nearest the back door. Mr. W. went to bed that night rather later than usual, about 20 minutes before 10—his usual hour was about 9. He was 92 years old and in some measure deaf—the left ear was deafer than the right; he has often told me—

Dexter objects to any thing that Mr. White said, as merely hearsay.

Webster. Our object is to prove the habits of Mr. White, from the observation of the witness, and from what he had heard Mr. White say.

By Court. What he said is not admissible.

Witness resumed. The head of his bed was against the Eastern wall of the chamber, near the door which opened into the front entry, so that any one entering that door would come behind Mr. W. if he was lying upon his right side.

Mrs. Beckford's furniture was in the back parlor, which was entered. In Capt. W's chamber there are shutters to all, and blinds to the front and western windows—I did not notice the state of the windows that morning, but the blinds were open and the room was light enough to see when I entered.

I knew that Mrs. B. was going to Wenham, for she had spoken of it 2 or 3 days before. I went to bed the night of the murder immediately after Capt. White went. It was about a quarter before ten o'clock. I went without a light. I left Miss Kimball raking up the fire, and as I went up I looked into the keeping parlor at the clock. There is an avenue and two doors on the west end of the House, and to get at the opened window, one must pass along that end, through the avenue, through a garden gate, round the buildings and up the garden to it. There are no blinds to my chamber—there is a shutter at my east window but none at the west.

Cross-Examination.—Mr. White went from the kitchen to his sitting room, and through his room to bed. After he had retired I knew what o'clock it was, because I looked at the clock. No one called at the house on the evening previous to the murder—do not know that Mr. W. sat

up late expecting any one. The street door was usually kept fastened all the evening, except the latter part of it, for when Mr. W. came in he used to leave it unfastened till he went to bed. The relatives, Mr. S. White's family and Mrs. Beckford's friends, passed in and out without knocking—I saw Joseph Knapp there once or twice within two months before the murder. Frank Knapp very seldom came there. Mr. W. never kept his lamp burning all night. It was not Capt. White's habit to keep a light or fire in his room during the night—there were shutters to all his windows, and to the north window shutter there is a bar, and this is the only one which has a bar. The weather, when I went to bed, was over-cast. The shovel and tongs had been removed from the chamber and there was no poker there—there was one in the room below. There is nothing between my chamber and Capt. W.'s but an entry and stair case—I heard no noise during the night—I don't recollect telling any person that some gentlemen were there or that any one was expected on the day of the murder—I don't know who had been there during the day—did not hear or see Mr. W. after he went up stairs—Miss Kimball had nearly raked up the fire when I went up—I did not hear her go to bed nor see a light in her room when I went up—I saw Frank Knapp a day or two after the murder—he sat up with the body and was in the house some time every day—I sat up with him one night and don't remember, who else ever sat up with him—he assisted at the funeral. There was nothing missing from the house after the murder, and there was money in Mr. W.'s chamber, about a week before the murder. I found the window which was entered fastened—knew that it was so by putting my finger over and feeling the screw—it had not been unbarred to my knowledge, before the murder.

Re-examined by Government.—I had seen Jos. Knapp there within 2 or 3 weeks previous to the murder—he usually came when Mr. White was not at home, about 4 in the afternoon—he married a daughter of Mrs. Beckford—he had free access to all the rooms when the family were out—we usually kept fastened both front and back doors—Joseph came into both

Webster. Before any other witness is called, I wish to understand the rule of Court about the exclusion of witnesses from the Court room, and that it may operate equally upon both parties. (The Court had excluded Joseph J. Knapp, jr. as above.) Such exclusion is I am aware the English practice, but not I believe that of our Courts.

Dexter. I must insist that all the witnesses be excluded.

By Court. All who have been summoned and expect to testify must not be present during the examination of any witnesses. We consider it the right of the prisoners.

Lydia Kimball (a domestic) was then sworn. I did not hear any noise during the night—the man came to my door and told me that some one had been into the house, for that the back window was up; I went down into the front room to see if any thing had been stolen; told him to go up and tell Mr White—he came down and told me to be calm—that Mr W. had gone to the eternal world—he then went to call the neighbors—I did not see Mr W. till I was called before the Jury of Inquest. Mrs. Beckford left the house on Tuesday, the day previous to the murder, about 1-2 past 11 o'clock—she told me, a day or two before, that she was going to Wrenham—Mrs Knapp came down for her. I went to bed that night rather before 10. There are blinds and shutters to my room; the blind on the west side was shut, but all the others, and all the shutters, were open.—In Capt. W.'s room all the shutters were open except one half of the one nearest his bed, which was a front window—that day when I made the bed all the blinds were open, except the western ones, and I have not seen them since. It was Mr W.'s usual habit to have all the shutters open but the half one I have mentioned. He usually went to bed about 9 1-2. I lived with him more than 16 years. I could generally tell when he was

awake, if I myself was so, by a kind of cough or *hem* which he had when awake, which was usually in the latter part of the night—I don't recollect hearing him ever early in the night—I had nothing to do with the room which was entered—it was Mrs B's, and not much used—the chambers over that side of the house were unoccupied. Capt. W. was deaf in his left ear.

Cross-examined.—I think Capt. White went to bed a little before ten, on the night of the murder—the northern window of his chamber was shut and barred in the winter and opened in the spring—I can't say exactly what time it was unbarred this spring—my room is over Mr White's and has the same number of doors and windows—no one called at the house that day after one o'clock—the gentleman who called then did not say he should call again. Capt. W. did not lock his door usually, but there was a key in it—I generally heard him shut it—I did that night—he usually put his candle on the table between the windows.

Dr. Samuel Johnson, called and sworn.

I was called about 6 o'clock, to Capt. White's—was told that he was murdered. I went, and entered with Mr. Stephen White. I went to Capt. White's chamber, and found him lying on his right side, or nearly so, and nearly diagonally to the bed. There was a mark of considerable violence on his left temple. I noticed that the bed clothes were laid slantwise, square across the body, and diagonally to the bed. He lay with his feet towards the left lower post of the bed, and his head towards the right head post. His head was towards the closet, and on the right side, on the pillow; on throwing off the bed clothes, I saw that the back of his left hand was under his left hip, and there was considerable blood on the bed; he also had bled a little from the nose. Nothing further was then done. I told Mr. Stephen White that an inquest should be called. In presence of the Coroner's Jury, the shirt was stripped off, and the body exposed. We found five stabs in the region of the heart, three in front of the left pap, and five others, still farther back, as though the arm had been lifted up, and the instrument struck underneath it. I examined a number of the stabs with a probe, and found that it would penetrate from one to three inches. It was my belief at the time, that either the wound on the head, or the stabs, would have caused death. The wound on the forehead was not very perceptible, except to touch. Upon feeling I could perceive that the bone was fractured. I was convinced at the time, that it was sufficient to cause death. Afterwards, a more minute examination was made; the scalp was removed, and we found a fracture of an oval shape, in the temple, 3 3/4 inches long, and 2 1/2 inches broad. A portion of the temple was broken in, some fractures extending upwards, towards the back of the head, and another down, towards the face. Upon opening the chest, it was found that two of the wounds had penetrated the walls of the heart, without reaching the cavity—I have no doubt that either would have produced death. The instrument which gave the blow on the head was probably some smooth instrument, like a loaded cane, that would give a heavy blow, without breaking the skin, and the instrument used in giving the wounds in the side, was probably a dirk. On the second examination, we found thirteen stabs, six in front, and seven farther back, about three inches from the others, near to the spine. We found three of the ribs fractured, most probably done by the hilt of the dirk. There was no appearance of a struggle, it appeared a case of instant death. I was desired by Mr. Stephen White, to look on and see the iron chest and trunk examined, and also the foot print and window. The window was open. I saw two foot prints, both directed towards the wall of the house. There was a plank set up, diagonally, the bottom of it about two feet from the sill. There were no marks of wet feet, but a little dampness on the floor, where it had rained in.

Cross Examined. The inquest was holden about an hour after I went to the house. The second examination took place 36 hours after death.

The stabs were grouped ; one group of five was within the compass of three inches. On the first examination, the wound on the head was not very perceptible, except to the touch. On the second examination, it was more prominent ; there then appeared to be more air in the *cellular membrane*.

The foot prints, I believed at the time, were made by the person when he put up the plank ; they were not near together, and were those of a right and left foot. There was no appearance of more than one weapon having been used in giving the stabs. The front wounds gaped more than the others, and were 3-4 of an inch wide. The first examination, (that before the Jury of Inquest was held,) was hasty. The head was then lying on its right side, partially, but not fully, and a little back. I suppose the arm was drawn back when the stabs were given, because it covered them when I first saw him. The body was nearly, but not quite, cold, and there was no pulse. The human body retains its heat for some time, if covered up. Mr. White was an old man, but he was rather fleshy. The blow on the head, by checking the circulation, probably prevented the loss of blood. From all the circumstances, my first opinion was, that it had been done three or four hours. There was, however, nothing to prevent its having been done six or eight hours. My first impression was that he had lost more blood than we afterwards found he had.

The Attorney General then called Joseph J. Knapp, Jr. as a witness, and inquired of him, if he was willing to be sworn. He answered in the negative, and the Attorney General was proceeding to inquire the reason, which was objected to by Mr. Dexter.

THE COURT said he was not obliged to state his reasons for refusing. It is only necessary that this should be understood, so that there may be no difficulty hereafter. The Government say they have pledged themselves not to proceed against him if he would testify ; he does not testify, and now that pledge is recalled.

Webster. We wish to proceed according to the usual course. I should suppose that he should be sworn, and then he may answer that he cannot testify without criminating himself.

Dexter. He does not complain of the course pursued.

Webster. His counsel say that he can have no right to complain, and the Government are content.

Dexter. It was stated by the Attorney General, in his opening, that Knapp would refuse to testify, in pursuance of advice of counsel. I feel it my duty to state distinctly that I have never given such advice.

Gardiner. And I have never given such advice.

Attorney General. But other counsel have had access to the prisoner.

Dexter. The only other counsel who has had access to him, is ready to make the same statement.

Benjamin Leighton, sworn.

I have lived with Mr. Davis, at Wenham, at the house where Mrs. Beckford and Joseph J. Knapp, jr's. family live, since the 6th of October last. Knapp's family came there to live a few days after I went. About a week before Capt. White was murdered, I went down to the lower end of the avenue, got over the wall, and sat down by the side of the gate, that is across the avenue. I sat a few minutes, and then heard men talking the other side of the wall. I looked round through the slats of the gate, and saw the two Knapps coming down the avenue. When they came near the gate, Joseph said, "When did you see Dick?" Frank said, "I saw him this morning." Joseph said, "When is he going to kill the old man?" Frank answered, "I don't know." Joseph said, "if he does not kill him soon, I will not pay him;"—then they turned back, and I did not hear any thing more. This was about two o'clock in the afternoon ; I had been to dinner. It was the Friday before Capt. White was murdered, I think ;—it was within the week previous to the murder. They

did not know that I was there ; I was waiting for Mr. Davis, to go to work.

I shall be 18 years old the 30th of next December. I am under no mistake about the conversation ; I am sure of the persons. *James J. Knapp, jr.* has lived in the house where I lived. *John Francis Knapp* came to the house frequently.

Frank came up to *Wenham* one evening, after the murder, in a chaise, about 9 o'clock ; this was about a fortnight or three weeks after the murder. I believe *Mrs. Beckford* was living there then. There was a gentleman in the chaise at the door ; I did not know him, but he was a slim man, not so thick as *Frank Knapp*. I went to the door when the chaise drove up—*Frank* got out and went in, and asked if his brother *Joseph* was at home. *Joseph Beckford* said he was. *Joseph Knapp* met *Frank* at the inner door, and they went into the room together, and shut the door. They were together, I should think, an hour ; nobody was in the room with them. *Frank Knapp* knocked ; I went to see who was at the door. The other person sat in the chaise all the time ; they did not give the horse any thing ; they both drove away together, down the avenue ; I could not tell which way they went.

Cross Examined.

The house is about fifty rods from the road ; I heard the conversation near the gate to the pasture, at the lower end of the avenue. I had just come from dinner ; *Mr. Davis* was in the house at the time. *Joseph* and *Frank* were standing by the gate, near the house, as I passed down the avenue—when I got down the avenue, they came down. I was sitting under the wall, to wait for *Mr. Davis*, and to take a little nooning, I mean a little rest. I passed them and went down the avenue, went through the gate, and passed it, and sat down behind the wall. I did not say any thing to *Mr. Davis* about the conversation I had heard. I have been called upon to tell what I knew about it, by *Mr. Waters* and another gentleman I did not know ; they sent for me to come to *Mr. Waters's* office ; I told them I could not recollect, at that time, that I had ever told any thing about it. I did not tell them I knew nothing about it. I was in his office in the forenoon and afternoon, and staid at the *Lafayette Coffee House* at noon.

The gate, where I left the *Knapps* standing, is in front of the house, and opens into the avenue. I went down the avenue towards the pastures, not towards the road, went out of the avenue over the wall, by the gate. This gate could not be seen from the place where the *Knapps* stood. The house makes one side of the avenue, which is narrower at that place. The gate, at which the *Knapps* were standing, is about forty feet from the house. The gate, where I got over, is 50 rods from the house. They could not see me when I got over the wall ; the house hides the place, and stands out into the avenue, or the fence retreats. I know they could not see me get over the wall, because I have tried since. I tried, because if they did see me, and knew I heard them, I was afraid they would kill me.

I first saw *Mr. Waters* a week ago last Thursday : I was summoned by a man from *Lynn*, and carried to *Mr. Waters's* office. They asked me if I recollect telling *Mr. Starrett* any thing. I told them I did not. I believe I did not tell them I did not know any thing about it. I went to *Mr. Waters's* office about 11 o'clock, and staid till 2. *Mr. Starrett* was there, and they talked with him. They asked me if I knew any thing about *Frank Knapp*. I told them I did not. I was asked if *Richard Crowninshield* had been at the farm, and I said I did not know him. They asked me if I had told *Starrett* any thing about it, and I told them I did not recollect telling him any thing. I did not then remember that I had told *Starrett* any thing about it, and I told them so. They bothered and frightened me talking to me, and I could not remember. *Mr. Starrett* told *Mr. Waters* that I had told him something, but I could not recollect

it, and told them so. They said Mr. Starrett and Dr. Kilham were in the shop when I said so. I told Mr. Waters I did not recollect it, but if he would come up the next day, I would tell him all that I knew. I then remembered what I have testified, but did not calculate to tell any thing about it. I went to Mr. Waters's office again in the afternoon, about 5 o'clock. From 2 to 5 I was at the Tavern. Mr. Starrett and Mr. Waters were at the office in the afternoon. Mr. Starrett asked me if I could not recollect what I said in his shop. I told him I could not. They said Dr. Kilham and Mr. Starrett were in the shop, and heard what I said. They did not question me any further. I staid there till sun about an hour high; I was there an hour or more. They did not tell me any thing would be done to me, if I did not tell what I knew, but said I must come to Court.

I told Starrett, because I spoke before I thought. I saw Mr. Waters again last Saturday, at Lummus's tavern, in Wenham. He came there with Mr. Choate and Mr. Treadwell. They wanted me to tell what I knew. I told them I had been down to Salem, but could not recollect then; I was in a strange place, and frightened. They talked to me so, that I could not recollect. Then I recollected what I had told Starrett, and told them the same story I have told to day. I believe they asked me but once. I told them at once what I knew. They did not tell me they had a warrant against me. Mr. Davis afterwards told me they would carry me off, if I did not tell all I knew; they did not threaten me.

The day I heard the conversation between the Knapps, I was going to splitting rocks. They were on one side of the wall and I on the other. I looked round beyond the wall, and through the slats of the gate. I did not wish they should not see me. They were half way between the house and the gate when I heard their voices, and looked round to see who they were. They walked down to within three or four feet of the wall. I heard nothing else, that I could understand. They stood by the wall two or three minutes, and then went back. It was after they stopped that I heard what I have testified. I did not tell the conversation to any body before the murder. I could not think, till after the murder, what it was about. I staid by the wall till the Knapps had passed out of sight. Mr. Davis came down after I had gone to work.

On the evening when Frank came to Wenham, with another person, it was dark, and the chaise top was up. I could see that the man, who sat in the chaise, was a slim man.

Re-Examined.—On the day after the murder, I went into Starrett's shop, and he said, "what is the news about the murder?" I said, they think I don't know any thing about it, but I know a little more than they think I do. I spoke before I thought. I was unwilling to say any thing more because if they got hold of this, I was afraid they would kill me. Frank used to be round me, with his dirk, and pricking me with it—he did this more than once, and other persons saw it. Thomas Hart saw it. The first time I told the conversation to any body, it was to Hart, and it was not long ago. I next told it to Mr. Waters. I told Starrett I overheard something, but did not tell him what. This was when going home from Salem; before this, I had told Hart, down in the field. No threat has been used to make me testify. I was frightened when I was carried to Mr. Waters's office, for I was taken suddenly, and from the field—they carried me by the Court House, but the Grand Jury had been dismissed. The officer read the summons to me when he took me.

Cross Examined again.—The first time I saw Francis Knapp have a dirk, was after he was attacked at Wenham Pond, after the murder. Starrett did not ask me what I knew, did not ask me what I had overheard. I am afraid now, if the Knapps get clear, they will kill me. I heard there was a reward offered. I told Mr. Starrett before I heard of the reward, but did not tell the conversation till afterwards. I did not know what the reward was.

Rev. Henry Colman, sworn.

I had no personal acquaintance with the prisoner until the 28th of May, when he was examined before Justice Savage. On the afternoon of that day, I went to his cell with his brother, Phippen Knapp, at his (Phippen's) request. When we went in, Phippen said, "Well, Frank, Joseph has determined to make a confession, and we want your consent." I am not able to give the reply of the prisoner, in his precise words, but the effect was, that he thought it hard, or not fair, that Joseph should have the advantage of making a confession, since the thing was done for his benefit, or advantage. I now give his words, as nearly as I can recollect them. He said, "I told Joseph, when he proposed it, that it was a silly business, and would only get us into difficulty." Phippen, as I supposed, to reconcile Frank to Joseph's confession, told him, that if Joseph was convicted, there would be no chance for him, (that is for Joseph,) but if he (Frank) was convicted, he might have some chance for procuring a pardon. He then appealed to me, and asked me if I did not think so? I told him "I did not know, I was unwilling to hold out any improper encouragement."

Dexter. We object to any continuation of this confession. It is now in evidence, that Phippen, with a view to reconcile Frank to Joseph's confession, told him, that if he were convicted, he might have a chance of pardon. This was a direct inducement to a confession.

THE COURT said they would hear the Counsel for the Government.

Webster. It appears to me exceedingly plain, that his confession is admissible. It is a general principle of law, that the confessions of a party are evidence against him, except in those cases where they have been obtained by improper influence. There is no doubt about the rule, the difficulty is in the application. We propose to prove the confession of the prisoner. Against this, generally, there can be no objection. Then, if this case be within the exception to the rule, it is for the other side to shew it. We deny it, altogether. We say the only exception is, when a confession is obtained by menace, or hope of favor. In this case, there is no proof of any encouragement, or any threat. There is no evidence to shew that the confession was not entirely voluntary. This person, Phippen Knapp, went to the cell of the prisoner, and told him that his brother, who was confined upon the same charge, had confessed, and asked his assent to that confession. The prisoner knew of no confession, whether it would affect him or not. His brother (Phippen) thought it expedient to ask his assent to his brother's confession. There is no other fact in the case. No confession was asked from him; but in the course of the conversation, he stated certain truths. The Government is entitled the benefit of those truths, unless he protects himself by some known rule of law.

The books tell us, that to exclude confessions, it must be shewn that they were made under the influence of fear, or the hope of reward. What is the evidence in this case? Did they say to the prisoner, it would be better for him to assent to Joseph's confession? Just the reverse. It would be worse for him, but on the whole, it would be better. There was no intimation that it would be better for him to assent. What promise or encouragement was there? Not the least, but just the reverse.

What we now propose to prove, is the confession of the prisoner himself. It is not enough that he thought it would be better for him to confess. That is no objection to a confession. Every body thinks it would be better to confess, or confession would never be made. The question is, whether the confession was the spontaneous operation of his own mind; if so, then it was voluntary, and we must have it. The Court can only look to what was held out to him. Any other course would be to leave fact and follow hypothesis.

The object of the conversation was to reconcile him to a worse state of things. But this is not the strong view of the case. The prisoner was under the influence of no hope, under the influence of no fear, under the

influence of no persuasion. If there ever was a voluntary confession, on the face of the earth, this was one.

Gardiner. We contend that this confession comes within the exception to the rule. The general rule is, that confessions are evidence, unless they are obtained by means of improper influence. If there be any influence, however slight, the confession cannot be used.

This is, at best, the weakest kind of evidence. The idea is absurd, that a person, charged with a capital crime, will confess, unless some influence is used. And it is laid down by Blackstone, and by Foster, and other writers, that it is the weakest kind of evidence; the most liable of all to be mistaken. The witness, in this case, cannot give the words of the prisoner, except in part. His testimony consists partly of the words of the prisoner, and partly of his own inferences.

We do not differ in principle, but in fact. Frank was told, if Joseph confessed, there would be more chance for his (Frank's) procuring a pardon. It is not necessary for us to shew the degree of influence used. (Cites Foster, 343. Phill. Ev. 86, 2 Stark. 48. Phill. 80 and note. 1 Leach. C. L. 325 and note.)

Dexter. In books on evidence, confessions are sometimes called the weakest evidence, and they are sometimes stated to be the strongest.—One reason why they are called the weakest kind of evidence, is because the witness cannot give the precise words, but only their effect. Such a confession is no confession at all. To bind the prisoner, we must have his words.

If this confession goes to anything it must be to the guilt of the prisoner, if it was a mere consent to Joseph's confession, then it is not evidence. The natural import of the words, as they came from the witness, was, if Joseph is convicted, he will have no chance; if you confess and are convicted, there will be a hope of pardon. This holds out a direct inducement to confess. This is the natural import of the words. The legal effect may be different, but the prisoner is not a lawyer.

Webster, in reply. The import of the words was not such as has been argued. But it was saying Joseph has no hope but in confession, you have some. The thing to be avoided in Joseph's case was a trial, and he was by disclosure to avoid that trial. It was asking him to consent to Joseph's confession as something perilous for him, but the only salvation for his brother. I have a right to ask for the confession until it is proved, that some threat or some promise was made. I propose to ask the witness for Frank's confession of facts within his own knowledge, wholly unconnected with Joseph's confession. And unless he was told, that it would be better for him to make such a confession it is admissible.

The Court delivered their opinions *seriatim*.

Morton J. The witness was proceeding to relate the confession of the prisoner, when some expressions came out, as it is contended by the counsel for the prisoner, which would make the subsequent conversation improper evidence. Confessions are not always evidence against a prisoner. Experience proves that men are sometimes led to confess what is not true. It is a general rule that confessions are admissible; the exception to the rule is when confessions are obtained by means of threats or promises, when made under such influence, they are inadmissible.

It was supposed that the witness was about to go on and state the disclosure of Joseph, and the question to the prisoner was whether he assented to it. This, if it implied his own guilt would be important evidence, if not, then it would be irrelevant.

It seems to me very clear that there was a direct inducement held out to him to confess, because he did not assent to Joseph's confession before it was said to him, that there might be some chance for pardon. I am therefore well satisfied that such an inducement was held out, that the conversation should be excluded.

But it seems to be the object now to shew statements made at the same time, besides assenting to Joseph's confession.

It seems to me that the same inducement would operate through the whole conversation; whether it would extend to a subsequent conversation or not, it is not necessary to decide. I am therefore of opinion, that not only his assent to Joseph's confession, but any declaration made at the same time must be rejected.

WILDE, J. I am of the same opinion; though it is a case of considerable difficulty. I do not place my opinion on the nature of the evidence, as was urged by the counsel for the prisoner. The rule of evidence in all cases, capital, as well as others, is the same, that the slightest influence of hope or fear, is sufficient to exclude the testimony. Then what influence was there in this case? It was the object of Phippen Knapp to obtain the prisoner's assent to Joseph's disclosure. Phippen remarked to the prisoner that there would be no chance for Joseph, if convicted, but for the prisoner there would be a chance for pardon, and appealed to the witness, who declined giving an opinion, because he would not hold out any improper encouragement. His assent would be an implied admission of his participation in the guilt. This must necessarily be evidence of a confession, whether direct, is not the question; if of any description, then it comes within the exception.

The next question would be upon the testimony to the admission of facts stated by the prisoner as within his own knowledge. If inducement is held out to the prisoner at one time, and he afterwards confesses, that evidence is to be rejected.

PUTNAM, J. I entertain a somewhat different view of this question. I lay out of the case all consideration of the weight of the evidence.—The Government offer to prove the confession of facts tending to shew that the prisoner was guilty of the charge against him. Such evidence is either the very best or the very worst; if the confession was made without hope or fear, it would be the best evidence.

Confessions are generally evidence. Then is this case within the general rule? Neither fear nor hope existed in this case. The object in going to Frank's cell was to ascertain if he would consent to Joseph's confession. And it is said, that if he assented to Joseph's confession, this would be evidence against him. But it seems to me most evident that it is not so. The object of the Government now is, to prove some independent confession of his own.

It was not the subject of the conversation, whether Frank should make a confession. It seems to me we stop *in limine*. It is not the question whether he consented to Joseph's confession, but if he stated any fact within his own knowledge, without the inducement of hope or fear. And it seems to me that there was no inducement to confess, held out to him. Any confession made at that interview, should, I think, be admitted.

It is the opinion of the Court that any thing said by the prisoner, after what Phippen said to him, is not admissible.

Mr. Colman, resumes.

It was just at the close of the interview, that Phippen appealed to me. He had told Frank, more than once, in the course of the conversation, that there might be a hope of pardon.

THE COURT direct the witness to state all that was said in relation to encouragement.

Early in the interview, Phippen said that Joseph had decided to make a confession, &c., (as above,) and afterwards repeated this, and appealed to me. Frank then asked me to use my influence, or interest, for him. I told him that I could promise nothing, but that I thought his youth would be in his favor.

I have stated all the encouragement that was given. There was not the least encouragement given to him, either by me or in my hearing, to relate facts within his own knowledge. Soon after this interview, I found

the club under the North steps of the Church, in Howard-street. I went there on the 20th of May, about 1 o'clock, with Dr. Barstow and Mr. Fettyplace. The steps are of wood—under the lower one there is a rat-hole—in it I found this club—[which see in the Plate, in Appendix.]

Webster. Who told you it was there?

Dexter. I object to this question. The finding of the club is all that can be given in evidence. This question is introduced to criminate the prisoner and therefore it is not admissible; for it is criminating him by his confession of that fact, and no part of the confession is evidence. (Cites *Leach, Cr. Law*, 300.) I call the attention of the Court to the principle, which is to give his confession against him, which has already been ruled out. (Cites *Phill*, 83.) In this passage is the origin of the doctrine.—(*Leach*, 300. 2 *Stark*, 50.) The case cited by Starkie does not support him, and it is against the principle.

Court. We are very clear that it is competent for the Government to prove that this club was found in consequence of information from the prisoner.

(*Mr. Colman* resumes.) Frank Knapp gave me precise directions where to find the club, and I found it as nearly as possible, in the place pointed out by him.

John C. R. Palmer, called.

Gardiner. We object to him, on the ground of want of religious belief.

Court. You have your choice of the mode of proof, but if you inquire of him you cannot prove it in any other way.

Witness sworn to answer.

Gardiner. Do you believe in the existence of Divine Providence, and in a future state of rewards and punishments.

Answer. I do.

Witness then sworn in chief.

Webster. We now expect to prove a conspiracy, between the two Knapps and the two Crowninshields, to commit this murder; having done that, we propose to prove acts done by all, in pursuance of the common design.

Gardiner objects to this course, because it is never pursued except in conspiracy and treason. [6 *T. R.* 527.]

Webster cites *Stark*, 210 and 6 *T. R.* 527.

The Court. We are satisfied with the course pursued by the Government.

Palmer. I have seen the prisoner at Crowninshield's, in Danvers. The first time, he came on the afternoon of the 2d of April, about two o'clock, with a young man named Allen—they came on two white horses. I saw the prisoner in company with George Crowninshield. Did not see them in the house; I saw them from the window of the chamber; they walked away together. I did not see them again till after four. Richard was with Allen. All four returned about 4. Allen and Frank then went away on horseback. George and Richard immediately came into the chamber where I was.

Dexter objects to asking what agreement the Crowninshields said they had made with Frank Knapp.

Court. The Government intend to prove a conspiracy—they may begin at either end.

There was then a conversation between us about the proposed murder of Captain White—both George and Richard spoke of it.—George, in the presence of Richard, proposed to me to take a part in this murder. The object of the murder was something that Frank Knapp had told them. The motive held out to me was one third of the \$1,000 they were to receive from Joseph Knapp. Richard said it would be easy to meet him that night, and overset Mr. White's carriage, for George said he had gone out to his farm. Joseph Knapp's object in the murder was to have a Will destroyed. George said

to me that I was poor, and in want, and had no funds, and that this would be a good time to supply that want. George said that the housekeeper would be away at the time of the murder. Frank came again on that day, about 7 o'clock in the evening, in a chaise, and alone. He stayed then over half an hour. Richard went away with him in the same chaise. I did not see Frank afterwards, till this time, but Richard came home about 12 o'clock that night. I do not know by what conveyance. I left Danvers the next day, which was Saturday. The Will was to be destroyed by Joseph Knapp, who could get the keys from the housekeeper, and have access to the trunk in which it was kept. I understood that the Will was to be destroyed at the time of the murder. This Will Joseph wished to have destroyed, because it gave all Mr. White's estate to a Mr. White, then living at the Tremont House, in Boston. I next saw the Crowninshields at their house, in Danvers, on the night of ninth of April. When Richard went away with Frank in the chaise, as above stated, he said he was going to the Lynn Mineral Spring Hotel. On the 9th of April, I went about 12 o'clock to the Crowninshields' house, and spoke under the chamber window to George, who opened it, and asked who was there. I told him, and asked him to come down. He came down, and asked if any one was with me. I told him no. He then let me in, and asked me if I had heard the news in Salem.

I staid there a short time, and then went that night to Lynnfield Hotel, where I put up. Next day I went to Providence, and staid two days. On the evening of the 27th, I saw the Crowninshields again at their house, about 10 o'clock. I stayed till 29th. Richard gave me four 5 franc pieces; I asked him to let me have it, and promised to return it. I then went to Lowell, then to Boston, then to Roxbury, then to Belfast by water, with Capt. John Boyle. While at Belfast, I wrote a letter to Joseph J. Knapp. [For the letter, see Appendix, p.p. 4—5.]

Dexter.—I object to reading the letter.

Putnam J.—Its bearing upon the prisoner should appear.

Webster.—It was received by his father, and the prisoner to divert suspicion, caused two other letters to be written.

Court.—Let these first be proved.

Wm. H. Allen, sworn.

I put these letters into the Salem Post Office, on Sunday afternoon, May 16th, between 5 and 6, at the request of J. J. Knapp jr. He gave them to me, and said that his brother Phippen and his father came up to Wenham the day before, and brought an anonymous letter from a fellow down East, and which contained a devilish lot of trash, such as 'I know your plans, and your brother's, and will expose you if you don't send me money.' He said that they had a good laugh upon it, that he requested his father to give it to the Committee of Vigilance. "What I want to see you now for, is to have you put these letters into the Post Office, in order to nip this silly affair in the bud." He said several other things, but I don't remember all. He said that his mother Beckford was getting old.

Webster, reads the letters.

May 13, 1830.

Gentlemen of the Committee of Vigilance.

Hearing that you have taken up 4 young men on suspicion of being concerned in the murder of Mr White I think it time to inform you that Steven White came to me one night and told me if I would remove the old gentleman, he would give me 5000 dollars; he said he was afraid he would alter his will if he lived any longer. I told him I would do it, but I was afeared to go into the house, so he said he'd go with me, that he would try to get into the house in the evening and open the window, would then go home and go to bed and meet me again about 11. I found him and we both went into his chamber. I struck him on the head with a heavy piece of lead and then stabbed him with a dirk, he made the fin-

ishing strokes with another. He promised to send me the money next evening, and has not sent it yet, which is the reason that I mention this.

Yours &c.

GRANT.

[This letter was directed on the outside to the "Hon. Gideon Bartow, Salem," and put into the Post Office, on Sunday evening, May 16th, 1830.]

Lynn, May 12, 1830.

Mr White will send the \$5000 or a part of it before to-morrow night, or suffer the painful consequences.

N. CLAXTON 4th.

[This letter was directed on the outside to the "Hon. Stephen White, Salem Mass.," and put into the Post Office in Salem, on Sunday evening May 16th.]

[For Palmer's letter, see Appendix. pp. 4.—5.]

(*Allen resumes*)—I went to Danvers, with Frank, on the 2nd of April, on horseback—on white horses.

Palmer recalled and cross-examined.

On the night of the murder I was at Babb's, the Half-Way House in Lynn. I was there from 7 in the evening, till 9 in the morning, and then went to Lynnfield, to meet John Dearborn, of Chester, N. H. We had appointed a meeting there. I expected to go to New York with him to go into business—I had no particular business in view. I first came to Salem 3 years ago, and from there went to Danvers to see the C's. I had an invitation from George at New York. I came back to Salem last March. I can't tell every place I have lived in between my visits to Salem—at New York part of the time and at home in Belfast. I lived at Thomastown 2 years. I was there occupied in *cutting stone for the State*. I don't know who employed me in behalf of the State. While in Salem, at the Lafayette Coffee House, I bore the name of Carr—*preferred that name at the time*—stayed at the Coffee House 2 weeks.—While at Danvers I lived with the C's in their room, apart from the rest of the family. I came from jail to day. I have been there since June last, and have been visited by Mr Colman, Mr Stephen White, my father, &c. I was brought up from Belfast in irons. I made the disclosure from my own wish, and was not compelled to do it. I knew the flannels were stolen in Danvers—saw it in the paper—he declined answering any more about the flannels.) I told Mr Waters that I did not want *Counsel*. While at Babb's I bore the name of George Crowninshield. I have been told that I should not get the reward and have no expectation of it—perhaps I expected part of the reward when I wrote the letter which I wrote to see if Joseph Knapp was connected with the murder. I was told by the C's. that it was only a joke when they proposed it, and did not think them serious until after the murder.

Re-examined by Government. I have never complained of the officers of Government, and have refused a pardon from them in this case.

Wm. H. Allen recalled.

Frank proposed the visit to the C's. We first met Dick—he invited us in, and in a few minutes George came in. Dick went to show me the factory and we separated from George and Frank at the house. After going through the factory George and Frank rejoined us, and after talking a few minutes Frank and I left them and came home. We visited them also once last winter.

One evening, about 3 weeks after the murder, Frank and I met Dick in Bath street. I thought they might have something private and was walking away, when F. said "stop a minute and I'll join you."

Cross examined.—Dick and I were in the factory 15 or 20 minutes. Frank did not request to be left alone with George. We were separated 1-2 or 3-4 of an hour.

Re-examined.—Frank's usual dress was a dark frock coat, and a glazed cap with a large glazed star on the top, and a camblet cloak.

Cross-examined.—Glazed caps and camblet cloaks were a common dress. I wore such a one. Wm. Peirce also had a glazed cap, and a Scotch-plaid cloak.

William Osborne, sworn.

I keep a livery stable in Salem. Francis Knapp has been accustomed to hire horses of me. The charges on my book against him from April 1, are as follow :

April 1. Horse and Gig to Lynn Mineral Spring. April 2. Saddle horse to Dustin's, in Danvers. William H. Allen had a saddle horse same afternoon. Francis Knapp had a chaise same day, in the evening. I find the charge of horse and gig to Spring altered, the word Spring erased, and ride substituted. I think the alteration was made by Francis Knapp, it is in his hand writing. April 3. Saddle horse to Wheeler's, which is about half a mile from Dustin's, and the same distance from Crowninshield's. Do not recollect the time of day. The last charge on that day is a saddle horse to Francis Knapp, to Wheeler's. April 5. Saddle horse to Wenham. April 6. Horse and Gig to ———. This is in my own hand writing. Do not know where he went. No price is put down. Have never ascertained where he went. April 19. Horse and Gig to Wenham. April 21. Horse and Gig to Wenham, and over that I find the name of Joseph J. Knapp. April 23. Horse and Gig to Wenham. April 24. Horse and Gig to Wenham. This is the last charge on the book that day—there are eleven previous charges. April 25. One half horse and Gig. April 27. Horse and Gig to Wenham.

Cross-examined. I make charges when horses are given out. Don't know when Francis Knapp came from sea. He rides considerable. Don't know where they go. I leave a blank till I ascertain. Always trusted him. March 30. Horse and Gig to Wenham. March 29. Half of the charge of Horse and Gig to Spring. March 28. Quarter of charge of Carryall. He hired horses and chaises frequently. Not often hired horses in the evening, but did afternoons. Can't tell much about the time of day by my method of charging. The father of the prisoner failed on the 6th of April. No charge to prisoner from that time to April 19. There are on my book ten charges before his on April 5. I have four white saddle horses, and others used occasionally. I have one horse, called Nip-Cat, of sorrel color, slim, and a smart trotter—rather remarkable.

Thomas Hart, sworn.

I live with Mrs. Beckford, at Wenham, and am hired to work on the farm. I went there on the 9th of last April, and was hired by Capt. Joseph Knapp. Mrs. Beckford came there to live about the 15th of April, and Frank Knapp about the 28th.

One Saturday evening, about 25th of April, Frank came there. Mr. Davis and Joseph Knapp had been to Salem, and had returned about half an hour. Frank came about 7 o'clock, knocked, and Joseph Beckford went to the door, and asked him how he came there at that time of night. Joseph Knapp went out with him to the chaise, and re-remained a quarter of an hour. I think I heard the voice of a third person in the chaise. They then came into the house, and went into a room by themselves, and staid about ten minutes. The chaise came a little after 7, and staid a little more than half an hour. Mr. Davis and Benjamin Leighton were there. It was dark, dull, cloudy weather. Frank had on a camblet cloak, and leather cap. Frank went in where Joseph was, and no one went with him. I was in Mr. Davis's kitchen. Joseph, on the Tuesday after this Saturday, gave me some 5 franc pieces to buy meal with. It had been dark half an hour, I should think, when Frank came. Joseph and Frank were pretty near the chaise, while talking together, and near the N. W. corner of the house. I heard three voices, which all came from where the chaise was. They did not move from that place while talking. F. Knapp has a dagger, and I have seen

him several times prick Benjamin Leighton with it, while out in the field. And one night after we had gone to bed, Frank came up and pricked Ben through the bed clothes, Ben asked him not to, and he said "lay still, you will not feel it after a little time."

Ezra Lunnus, sworn.

I live in Wenham, and keep a public house there, about a quarter of a mile below where Mrs. Beckford lives. I saw Dick Crowninshield at my house for the first time, in the latter part of March. He and a young man, I didn't know who, came to my house on that day—left their chaise—went away and were gone sometime. The man with Dick Crowninshield had on dark clothes and a glazed cap, I think.

Ten days or a fortnight after the murder, on Saturday, I believe, Dick Crowninshield came again with a person whom I did not know. I was not at home when they came, but found them there. They paid their bill with a 5 franc piece, and my wife brought it to me for examination, and I gave the change to Dick. They then went away—I cannot fix the hour precisely, but should think that it was about half past 9 when I came in—they staid but a very short time after that—not more than 5 or 10 minutes. I can't *exactly* describe the man who was with Dick, but he was about my height, and rather stout—stouter than Frank Knapp I think.

Cross-examined. I knew at the time that the coin was a five franc piece.

Mrs. Lunnus, sworn.

Some persons were at our house about the 24th or 25th of last April, and passed a 5 franc piece, I think it was the latter part of the week, and on a misty and rather cold evening. Wood was brought in and a fire made up. I carried the 5 franc piece to my husband. I can't say, positively, whether this was before or after Mrs. Beckford came to live in Wenham—or before a certain robbery, heard of there.

Cross-examined.—I did not know either of the young men. One had a dark dress, but I don't know how the other was dressed. I am not certain that this was before the Knapps' robbery. It is my impression that it was.

Josiah Dewing, sworn.

I came home from sea last spring, and brought from 3 to 4000 5 franc pieces. About 500 were for Joseph Knapp, jr. and were brought from Point Petre, Guadaloupe, and paid to him. So far as I know, all but his went into the bank, as a deposit. The distribution of them was about the 21st of April last, and I have the receipt of Joseph for his portion.

Cross-examined.—I have been a ship-master several years. It is nothing unusual to bring home 5 franc pieces. Don't recollect bringing home any lately, on any other occasion.

Daniel Marston, sworn.

I know George Crowninshield, and in the course of last spring I received from him two 5 franc pieces. This was on Saturday, the day before his arrest.

Cross-examined.—I keep a victualling cellar. Five franc pieces are not a common currency. I do not often take them—not so often as I do hard dollars.

George Smith, sworn.

I attend Mr. Chandler's grocery store. On the evening before the Crowninshields' arrest, I received from some person, and in the presence of George Felton, a 5 franc piece.

Cross-examined.—I have frequently received them from other persons.

George Felton, sworn.

I know George Smith—I went into Mr. Chandler's store with George Crowninshield, when he paid Smith a piece of silver.

Joseph Shatswell, sworn.

Capt. Dewing brought home some 5 franc pieces for Joseph Knapp, jr. last spring and they were paid to him. Those that belonged to the owners were deposited in the Mercantile Bank, and remain there now.

Cross-examined.—I have had them come home frequently. I take about three hard dollars to one 5 franc piece. I have traded to Guadeloupe five years, and the return has principally been in 5 franc pieces.

Stephen C. Phillips, sworn. I was one of the Committee of Vigilance. The two Knapps came before the Committee at their request to give an account of a robbery, said to have been attempted upon them at Wenham.

Dexter. I object to any proof of this robbery.

Webster.—It is always competent to prove, what persons under suspicion do, to divert that suspicion. I cite to this point. 1 Stark. 492-493.

Dexter.—Such evidence is just as if that of a generally bad character was given to the Jury—besides, it is not within the rule laid down by the Court in relation to anonymous letters. This is, also, a distinct crime.

By Court.—It is now proposed, by the Counsel for the Government, to prove that the prisoner got up a fictitious robbery. This is objected to, on the other part, because it is a distinct offence, and has no relation to the crime now charged.

It is now clear, that the Government may prove that the Defendant took measures to divert suspicion from himself, and it would seem to follow, that any evidence which tends to this point is admissible. The Court will take care in charging the Jury to give such evidence its proper direction, and its weight will be left to them.

Mr. Phillips proceeds.—I have known Jos. Knapp some years, but have never known Frank. On Tuesday, 27th of April, it was stated in town that the Knapps had said they had been attacked at Wenham. The Committee thought it proper to make inquiry into this affair. The Knapps appeared before them, on the evening of 27th. I took minutes of their statements. I have these now with me, and can state more fully by referring to them. They are in my own hand writing. The questions were chiefly addressed to Joseph in the presence of Frank. I believe these minutes were read over to them, for this was our general practice.

Court.—These minutes may be used as a memorandum to refresh your recollection and if they are proved to have been read, they will become evidence.

Nath'l Kinsman, sworn.

I am one of the Committee, and was present on that evening. They were read to the prisoner and his brother, and they assented to them.

Court.—They may then be read.

Mr. Phillips—Joseph was the narrator.

"Tuesday Evening, April 27, 1830. Left Salem at half past 8 o'clock, in a chaise for Wenham. About twenty minutes after 9 o'clock, within a few rods of Wenham Pond Hill, so called, (this side of the pond,) saw 3 men, in the middle of the road, walking towards us. The two on right and left seemed to step forward a little, leaving the centre one in the rear. The centre one stepped up and took the horse by the bridle, with his left hand, and seemed to be taking out an instrument with his right, an appearance of an ivory dirk handle. This fellow was dressed in a dark short jacket, (a sailor's jacket,) cloth cap; not glazed, did not notice pantaloons—dressed like a sailor, but did not act like one. White men—had two black marks (smouches) on their cheeks, to resemble whiskers—not real whiskers. The fellow who seized the horse, said "How do you do?" or something of the kind. Then he said, "Where are you going?" or, "where are you bound?" My brother answered, "I will let you know, d—d quick"—and my brother then drew his sword-cane. In the mean while, I struck the one who came up on the right, with the whip. The last fellow took hold of the handle of a trunk, at the moment I struck him. I struck him across the right cheek. The fellow on the other side, at the

same moment, made a motion to shove the trunk across the chaise. The fellow whom I struck with the whip, wore a long coat, dark, without bright buttons, hat, no whiskers; was a stout man—all pretty good sized men. The one who came up on the other side of the chaise was very tall and square, stout whiskers, apparently false, black hat, straight coat of a dark color. Francis made his reply to the man who held the horse, and immediately drew his sword cane and made a pass at the fellow who came up on the left. As he struck, the fellow sprang back. Francis then sprang out of the chaise and made another pass at him—the fellow ran, and got over the stone wall, before he could reach him. The fellow who came up on the right, passed round back of the chaise, and then made off over the wall in the same direction as the other. The fellow, who held the horse's head, ran off at the same time, and in the same direction. All went over stone wall, or left hand side of road towards Wenham Pond. Francis Knapp then returned to the chaise—and just as they were starting, heard a shrill whistle. We heard the mail stage pass, just as we got to our house. Think the fellows, or scouts employed by them, may have heard the mail stage coming along; and therefore whistled to alarm the rest. Perhaps whole detention did not exceed three minutes. Old house near spot (distant say, as far as from here to common) occupied by an old woman—doubtful character—am inclined to suppose it a house of ill fame; this old woman was yesterday twice on our premises—Called once for milk—Was never at the place before. Her name is Wheeler. I left farm in afternoon and was probably seen to pass by people in this house. The fellow, at whom Francis Knapp made a pass, leaped over wall, without touching it."

Frank added that the fellow leaped over the wall without touching it. He also said that if he should be attacked again he was prepared to give them cold lead. These men described by the Knapps, corresponded to some men who had been suspected. The men seen in Brown street were described,—I believe the one as having on a coat and the other a short jacket and cap. Concerning these last, we had, at that time, but little information.

Cross-examined.—We had before inquired, particularly, about the dress of certain suspected persons. The appearance of persons described by the prisoner, bore some general resemblance to persons publicly described. The Committee consisted of 27 members and we met every night for some weeks. No leading questions were put to the prisoner, by the Committee during the examination.

Warwick Palfray, jr. sworn and shewn a newspaper containing an account of the robbery.

I am the Editor of the Essex Register, and published this number. It is dated May 3, 1830. I know the Knapps perfectly well, and having heard several reports in circulation respecting the robbery in Wenham, I applied to them for an account of it. They gave it to me at the News Room, and on my return to my office, I reduced it to writing, and published it as I received it from their mouths. I did not shew it to them after it was written. I think Joseph J. Knapp, jr. gave me the particulars. [Mr Palfray then repeated the particulars, as recited by Mr Phillips.]

Cross-examined. Had no doubt at the time, that the statement was true.

Nehemiah Brown, sworn. I am the Keeper of the Salem Jail. On the fifteenth of June, a little before two o'clock in the afternoon, I had occasion to go into George and Richard's room, to carry notes. Called at Richard's room, but had no answer. After calling for him a second time, I looked over the top of his door, and saw him hanging at the grate. Called turn-key and went in. He was hanging by two handkerchiefs. Took him down. Called in physicians. They attempted to restore life, but without success. I then sent for a Coroner.

The Attorney General then read the inquisition on the body of Richard Townsend, jr. The verdict of the jury was *felo de se*.

Mr Brown cross-examined. The Rev. Mr Colman visited the cells of the two Knapps. Which first do not know—but both on the same day. Richard.

Crowninshield's Counsel had constant access to him, when they chose. Richard Crowninshield was usually supplied with newspapers.

Mr. Palfray called again. I published a number of the Essex Register on *twenty-first May*, containing the disclosure of Joseph J. Knapp, jr.

Cross-examined. I published an article respecting the finding of the flannels in Danvers. Should think it was *three* or *four* days before Richard Crowninshield's death.

Richard Burnham, sworn.

On the evening of the murder saw George Crowninshield, with *two* others, in Essex-street, near Franklin Building, about *sixty* rods from Capt. White's house—near Newbury-street. They were going towards the eastward. One of the persons with him was Chase. Did not know the other. It was about *eight* o'clock.

John McGlue, sworn.

On the night before the murder, saw Richard Crowninshield, jr. standing opposite Capt. White's house. Found him standing there. He was not doing any thing. I was going up along, on the south side of Essex-street, and when I came up to the brick house next to *Dr. Barstow's*, I found him standing near a post, he had his head turned up, so as to look up towards Coffee House, or that way, so that I could see side of his face. Think that where he was standing was a little higher up than the house of Capt. W. It was about half past *eight* in the evening. Crowninshield walked up with me, as far as the Post Office. Asked me, if I was going further. I told him no, and he continued on.

Cross-examined. Lafayette Coffee House is west of Capt. White's house, a short distance. Richard Crowninshield, jr. was opposite upper end of the house. He might have been there an hour, for all I know—did not see him till I came up. Do not know whether there was a party of girls opposite. This was Monday night. Richard Crowninshield, jr. was by brick building next to *Dr. Barstow's*.

Benjamin S. Newhall, sworn.

I saw George Crowninshield on the evening of the murder, April sixth, passing down Williams-street. It was a little before 10 o'clock. There was a person with him, whom I did not know. He had on a glazed cap. Do not know particularly other parts of his dress. He was a little shorter than George.

Cross-examined. It was between half past 9 and 10 o'clock.

Thomas W. Taylor, sworn.

I saw George Crowninshield on the evening of the murder, at from fifteen to twenty minutes after nine, passing by door of my store in Newbury-street which runs down by the Common. A man was with him, whom I did not know. Store in northwest corner of Franklin Building. He was on the east side of Newbury-street. Some person spoke to him at corner of Newbury and Essex streets, and asked him, where he was going. George said, "You know, all the way down town."

Cross-examined. He was going down towards Williams-street, from Capt. White's house. When I first saw him, he was in Newbury-street going towards Williams-street. Do not know whether he came up or down Essex-street.

Joseph Anthony, sworn.

On the evening of murder, I saw George Crowninshield going from Essex-street into Central-street. Two other persons were with him. One was Chase; the other I did not know. George had on a short jacket and fur cap. They were talking, as they passed.

Benjamin Horton, sworn.

A year ago last spring, I saw Richard and George Crowninshield at Lynn Mineral Spring Hotel. Chase was sitting near Richard Crowninshield. Saw dirk in Richard Crowninshield's bosom. Dick told me it was his *nurse child*.

Prisoner's Counsel objected to the statement of what Richard Crowninshield said. The Court observed, that they could not see, but that it might tend to prove that Richard Crowninshield usually wore a dirk, that instrument being alleged to have been used in the murder, and they therefore thought the evidence admissible.

The Witness proceeded. Richard Crowninshield commonly carried it with him. I examined it, and should think the blade was from *five* or *six* inches long. The handle was bone or ivory. Had a cross hilt about three quarters

of an inch long. Called on them about a fortnight after murder, to see if they would say any thing about murder. Saw Richard Crowninshield near workshop. He went into the house, when he saw me. Afterwards came out, and we bid each other "*Good morning.*" George came out soon after, and asked, when I came from Portland, and if any kind of gaming could be carried on down there, as he and Dick thought about going down there—said they intended to go down, but meant first to make a *raise* at Election. Inquired of me about steam-boat. Shewed me some false props, they had been making. I agreed to meet them on the next Thursday evening, at Salem Hotel. They were arrested on the following Sunday. I had received information in Boston, that I was suspected of the murder of Capt. White. I immediately wrote a letter to Dr. Barstow about it, but received no answer. Went to Hotel, saw there the two Crowninshields and Chase. They were whispering among themselves. Every body seemed to look at me with suspicion. I wanted to see if they (the Crowninshields) knew any thing, and made them think I would go with them. Said they had good game all winter at their room in South Salem.

Cross-examined. Mr. White suggested to me the expediency of going out to Danvers, to see the Crowninshields. Went to see if they would tell me who murdered Capt. White, but did not tell them so. Went partly on my own account. Told Mr. White, in Boston, that I thought of going out to Danvers, to see the Crowninshields. I wanted to see if they would say any thing about murder. It was after conversation with Mr. Stephen White, but don't know whether he or I proposed it first.

Don't know how I came to be suspected. Know no cause—heard a check was drawn by Mr. White for \$1000 on a Bank in Boston. I had asked Mr. Stephen White to loan me \$50, which he did. Having occasion to pay Mr. Leavitt \$1 37, I asked him to change this check. He could not, and went into the Bank, at the back door, as the front was shut. I borrowed money of Mr. Stephen White two or three months before the murder. Mr. Theophilus Sanborn said, I had a check of Mr. White for \$1000. On the night of the murder I was at Windham, 14 miles from Portland.

Cross-examined. When in Portland saw that a reward was offered. It was Thursday morning, at about 10 o'clock. I was not to have any thing, if I obtained information from Crowninshields.

Stephen Mirick.

I live directly opposite to the corner of Mrs. Andrew's yard, on north side of Brown street. About 15 minutes before 9, on the evening of the 6th of April, I saw a man standing at a post, directly opposite my shop, on the opposite side of the street. He stood with his arms on the post, and facing the common. I had a fair view of him. I did not know him. He remained there apparently waiting for some one—this led me to be more particular, in noticing him. He stood thus, till the bell rang for nine, changing his situation a little. After the bell rang, I went out as usual and shut my shutters, but did not put up the slide to my door, so that I might see if any one came to meet him. He walked back and forth twice, certainly, if not more. When any one came down Brown street, he went into Newbury street, and then turned so as to meet him at the corner; and if any one came down Newbury street, he went into Brown street, and turned to meet him in the same manner. From this post he could see up Newbury and Brown street, about as far up one street as the other. I stood to see if any one should come to meet him. He remained there till 20 or 30 minutes after nine. I did not see him go away, and he was there when I shut up and went home. He had on a frock coat which came round him very tight, was very full at top and bottom; it was of a dark color. I can't say, what he had on his head. I did not observe his face at all. I never saw the prisoner till he was brought before the *Grand Jury*. It is my belief that he was the man at the post.

Dexter.—Objects to mere belief.

Webster.—In questions of identity, it is always admissible. (Stark. 127.)

Webster. Have you, as you know, or believe, seen that person since?

Ans. I think I have seen him since.

Webster. Where have you seen him, and what name did he bear?

Ans. I think I saw him when he was brought up before the *Grand Jury*, and when he was brought up, once or twice since. I think it was Francis Knapp. Can't swear positively, but I believe it was he.

Court. Was this belief derived from personal observation, or from what you have heard from others?

Ans. From both—that is, from my observation at the time, and from the description of the person seen that evening.

Court. From your own observation alone, do you say, it was Frank Knapp?

Ans. No I should not. Can't say positively, from my own observation. But the size and height of the man, I saw, correspond very nearly to prisoner. His dress is different now.

Webster. I suppose, we may ask, what description of dress has been given to him.

Court. His belief arises from two sources. What he had from others, is not evidence.

Cross-examined. I saw the prisoner when he was brought up to be arraigned, week before last, on Tuesday I think. Don't know what part of the day. The first time, I saw him, was one day, when he was brought in to hear indictment. I was in County-street—the prisoner was in a chaise. There were three chaises; he was in one of them, do not know which. Saw him get out of the chaise at the door. Did not see him, in this room.

He had on a light coat—they were all pointed out to me, as they rode up. Don't know who pointed them out.

Re-examined. Prisoner, at the Bar, is the same person who got out from the chaise, and was pointed out to me, as Francis Knapp.

Cross-examined. I can't say whether I asked which was Frank Knapp. I heard some person, who stood by, say this is such an one, and this is such an one. Believe, I did not inquire, which was Frank Knapp, or speak to any one.

Peter E. Webster, sworn.

I live in Bridge-street, corner of Pleasant-street. My place of business is in Essex-street, nearly opposite Newbury-street. I have occupied for purposes of trade several buildings. Always have more or less property about Branch Meeting-house. Occupy the cellar of it. I went home about half past 9 in the evening of April 8th; from half past 9 to 10. I generally go to Post Office first. I went through Howard-street on my way home. About a quarter of the way down Howard-street, saw two persons—overtook them, at the bottom of street, near new road. They were walking about the middle of the street. This is a narrow-street. They were walking down towards river. Passed them at the lower end, where it goes out. I took one of them to be Frank Knapp, and mentioned it once or twice. Did not think any thing about it, more than if I had seen any body else. Have always known Frank Knapp for a dozen years. When at home generally see him every day or two. He is sometimes at sea. I passed nearest to him, and I supposed him to be Frank Knapp. I then took him to be Frank, and I have never altered my mind. The other person I did not notice. They were walking slowly. I turned to the right. They were going same way. They followed me. When I last saw them, they were about a dozen or twenty rods from the bottom of the street. They did not pass my house. Did not see them, after they got to the rise of the hill. Capt. Knapp, the father, lives in Essex-street, near my store. The prisoner stays at his father's, when at home.

Cross-examined. I did not see the face of the man. Knew him by his air and walk. Passed within 6 or 8 feet. Did not speak to him, nor he to me. I sometimes speak, and sometimes do not speak to him when I meet him. Both men had dark wrappers, and glazed caps. Night was cloudy, and a little damp. Don't know Richard or George Crowninshield. I know it was sixth April. Took notice of the men, because unusual to see men, in that street. Don't know, that it is a street, where assignments are made. I mentioned it to Mr. Foster, Cashier of Asiatic Bank. Do not recollect how soon. Do not know, whether before the Knapps were taken up, or afterwards. I thought it was Frank, whom I saw there, before they were taken up. Told Mr. Foster one of them was Frank Knapp. The Post Office generally opens at half past nine. My usual hour of going to Post office, was a little after nine.

Could not say positively who the person was, without seeing his face. Thought they were waiting for somebody because they walked so slow. I know that night—recollect the appearance of the night on account of the weather. I sometimes go home other way. I did not go that way the night before.

Do not recollect what the weather was the night before. Heard of murder next morning. Sometimes take five franc pieces—not very common—take more or less every week.

John A. Southwick, sworn.

I live in Brown street, next house but two to the westward above rope walk. Mr Downing's house makes the corner of Howard street. On the evening of the murder, I left my father's house in Essex street, about half past ten to go home; as I passed up by rope walk, I saw a young man sitting there; as I passed him, he dropped his head. I stopped at Downing's door, then walked back, I think that time, then returned to Downing's house, and then to my own. Dropped his head every time I passed him. I felt very sure it was Mr Knapp. Passed him three times, when on the steps; he had a brown camblet cloak, and glazed cap. I then took that person to be Mr Knapp. I was brought up along side of him, within a few houses of him, from his boyhood. When I passed the third time, I went into my house—my wife was up. One time, when I went in, I spoke to her. The same person was in my mind, all the evening, after I saw him. I came out of my house, and walked to the corner of Downing's house, looking for this person, down Howard street, when Capt. Bray came up. He asked, what I was out there, so late for. Told him, I had seen a person, on rope walk steps, and about there, that looked suspicious, or whom I thought suspicious. He said he had seen one also, and pointed up to old Mrs Shepard's house, and said there he is now, on the opposite side of the street, further up. Looked and saw a person standing there. He came down by us, and went to the post nearly opposite Capt. Bray's door, and leaned over the post. When he passed us, we were near Downing's house, on that side. This man passed down on the opposite side. We walked down some ways, perhaps as far as Dr Johnson's house. While he was at the post, we went in, at the west end of Bray's house, and went into the house, at the end door. Front door is on the north side of the house, the side nearest post. Went into his chamber. When we went in, only half of one shutter open. I stood back. Mr Bray watched. In a short time he said, another one has come up. Now they have passed along to the west corner of the house, and that induced him to go to the window to look out. Saw one of the persons running across the street. (Here the witness referred to the plan which had been exhibited to the Court.) He run round rope walk corner. The other went down towards Common. Thought he went round corner. Then Mr Bray and I came out, went down Howard street, round up Williams street, and back home. We parted in front of Bray's house. Mentioned to my wife, what I had seen. Told her, I had seen a person, that I supposed was Frank Knapp, without making any further observation. Do not recollect dress of person leaning on post.

Cross-examined.—The time, when I first saw this person, was about half past ten. I know, because I knew at what time I left my father's house. It is two or three minute's walk. My impression is, that I looked at my watch when I was at my father's, and thought it was time to be walking up. It was about half past ten.

The man upon the steps was two or three feet off, when I was nearest to him. I did not speak to him because I had nothing to say to him, and he hid his face. Perhaps I should not speak to him three quarters of the time, when I met him, owing more to his manner than mine; he rather evaded speaking; I don't know that I saw his face; his dress was a camblet cloak, I can swear to it.

I judged it was Frank Knapp, from the general appearance of the man. He was not wrapped up, for I could see that he sat cross legged. It was a cloudy night but moon was at the full. I don't recollect its raining; it did not rain then; it was misty at times.

I did not see the man on the steps get up and go away; but it is on my mind that it was the same man I saw at the post. I did not think it important to go out, though it looked suspicious in the man to drop his head when I passed and to be sitting on the steps at that time.

I have no doubt he had on a glazed cap; did not see any fur about the cap. I went out the second time from suspicions expressed in the house, when I told what I had seen. They said in the house, they should like to have me go out, though I had said who I thought the man was. I have not known that Howard Street is a place of assignations for the last six months. I cannot say that I suspected the man was there for that

purpose. I cannot say what I suspected him of. When I met Capt. Bray, I told him my suspicions. He said there was a suspicious looking person on the other side the street by the post. Don't recollect seeing the man by the post 'till Capt. Bray pointed him out to me. He did this when we were standing by Downing's house. We saw him pass down the street. Can't say whether the man Capt. Bray pointed out to me had a cloak and cap. I thought it was the same I had seen on the steps, because I had seen no other in the street. I had the same suspicions about the man who walked down the street that I had of the man on the steps. Don't recollect stating before the magistrate that I took the person on the steps for Frank K. from nothing but his dress.

I cannot describe the dress of the person who came up and joined the man standing at the post, when we were in Capt. Bray's chamber. The post might be six or eight feet from the window. I can't swear to the dress of either. My impression is that one of them had on a light coat. Can't recollect the other's dress.

I don't recollect that I have told any person that I could not tell who the person was on the steps. Have no recollection of telling any person that I could not distinguish. I never said the man on the steps was Wm. Peirce, but compared him to Wm. Peirce in size and appearance. I don't recollect telling Capt. Bray that he looked like Wm. Peirce; never told him I tho't the man was Wm. Peirce.

I cannot tell how the man running across the street was dressed; I knew it was one of the same persons, because they appeared to be watching, and engaged in the same business.

We were looking out of the window 4, 5 or 6 minutes. I can't say the dress spoken of is a common dress, but many young men wear glazed caps and camblet cloaks.

I cannot tell when I was first examined before the Committee of Vigilance, or that I ever was particularly. I have been sent for and questioned about this matter; cannot say whether before or after the Knapps were arrested.

The observation of Capt. Bray, that the man had gone to the West end of the house, was made before I looked. I did not continue to look, but looked away. When I was looking out of the W. window, and saw one of the men running to the Eastward, I did not know where he went to.

I never said either of those persons was Crowninshield or Selman or Chase.

I was at Ipswich before the Grand Jury; did not state to them, that I supposed the person, that I saw on the steps, was Frank K. I was sworn to tell the whole truth. I did not say that it was Selman or that it was not. I said I thought that it looked some like Selman.

When I passed the man on the steps, I went half way to the Common; the first time I passed him I went as far as Downing's corner, then turned and went back half way to the Common, then repassed him and went home. I was watching the man 20 minutes before I went into the house; stayed in the house a few minutes; Capt. Bray and I watched him 5 or 6 minutes; we were in Bray's house 6 or 8 minutes; in going down Howard street, we went pretty quick the first part of the way; looked over into the burying ground by the Branch meeting-house, to see if the person was there; we stayed together perhaps two minutes after we came back, then went home. I did not hear the clock strike after I got home; it was about 10 minutes past eleven by the time-piece, when I got home. I have not said that I heard the clock strike eleven that night.

Daniel Bray, jr. sworn.

I live in Brown street, and in the lowest house on the S. side.

On the evening of the 6th of April I was passing down Brown St. from St. Peter's St. and when I passed the 4th house, I saw a man dressed in a dark full frock coat, dark pantaloons and shining cap standing at a post. The frock was very full at bottom.

I was on the North side of the street and he on the S. As I passed on I saw another man looking or peeping down Howard Street, who I found was Mr. John Southwick. I think I asked him what he was about there so late. He said that when he went into his house a man was sitting on the rope-walk steps. I turned round and observed, "there stands the man now." (I could see him very plainly up toward Shepard's house—it was so light.) Mr. Southwick then said that he did not like the looks of the man when he went in. I walked on with him close to the rope-walk, and stood so as to get out of the wind, when the man passed along on the South side and took his station at the post next the bounds between my house and that of Mrs. Andrew. I asked Southwick to go with me into my house, to see what he was about. We passed about 20 ft. from him and entered my west door, and went up into my chamber, because the sliding shutters in the room below were closed, and we could not unclothe them without noise. I looked out of the window and by pressing my face against the glass, I could see the man at the post, and never lost sight of him while he stood there, which was 5 or 6 minutes, when another man came from Eastward—in the middle of the road and not on the side-walk. I saw him when he was 150 or 200 feet off. From my window, I could see down Brown-street, and the Common, so the man must have come through Newbury-street, or we could have seen him sooner. He came up to the post close to the other without bowing, as near as he could get, and stopped. They then went together into the street 10 or 11 feet toward the N. W. and stood there not more than a foot apart, and not more than a minute. I could then see them better from the Western window. The man that came from the E. had on light clothes—he then ran as hard as he could down Howard-street. The other at the same time started off in the opposite direction, and was out of sight towards the E. I know he did not go up Brown-street, for he turned round and went to the East. When we got into the street we could see no one. We then went down Howard-street immediately, and as soon as we came to the Grave-yard, we looked over the fence several times, but saw nothing;—we looked over the fence repeatedly. Before we got down to the New Road we saw a light open waggon with a man in it passing along that Road towards Beverly. We went on round through Williams-street and came home. I don't know the prisoner now—but did know him 4 years ago. I have seen him since in prison, and at the bar. I can't tell whether he was one of those I saw that night; the size and general appearance agree very well. I had heard the clock strike 10, and should think that it was 30 or 40 minutes after when I met Southwick. After the murder I went up on Downing's steps, and could see all the North and West windows of Capt. White's house, and a light in the chamber where he slept—the windows of the room over that, those of the room on the same floor over the kitchen, and those of the room over this. These cannot now be seen because of leaves on the trees.

Cross Examined—The steps of Downing's house is the only place where I looked from. The windows could not be seen from the Rope Walk steps, or from Shepard's post, or from the post near my house, or while walking down under the fence on the S. side. I saw the man before I came to Southwick and it appeared singular that one should be standing there. He did not then tell me that it was Frank Knapp, but he has since told me. I believe after the arrest. I did not then hear Southwick say that the man looked like William Peirce, and believe I did not hear him say so when examined by Justice Savage.

Mrs. Southwick, sworn,

On the night of the murder Mr. S. came home after 10, went out again and returned just before or just after 11. I had looked at the time-piece just before.

Capt. Bray, recalled by Counsel for Prisoner.

My dress was a dark frock coat, dark pantaloons. Southwick's was reddish pantaloons, and we both wore hats.

Miss Elizabeth Potter. Sworn.

I live in Brown Street. The evening of the night of the murder, about half-past ten, I saw a person standing at the corner of Howard Street, looking down Howard Street. He turned and looked towards the house, when I opened the door. The house is nearly opposite the rope-walk.—His dress was light pantaloons, cinnamon drab, I thought, and dark coat; I don't recollect what he had on his head. I know Mr. Southwick and do not think it was he.

Isaac H. Frothingham. Sworn.

I was in Brown Street on the evening of the sixth of April. I was at Mr. James Potter's, nearly opposite the rope-walk. It was about half-past ten o'clock, when I came away; I looked at the clock. When I opened the door, I saw a person walking up the street slowly. He had passed the door when I opened it. He turned and looked over, and remained there after I walked up the South side of the street. He was on the opposite side-walk, within a few paces of the rope-walk, when he first stopped. He then advanced a little farther, and that brought him to the corner of the rope-walk on Howard Street. I went on the same side of the street, and looking back, thought he was joined by another person. One of them was dressed in a dark coat and light pantaloons and hat. The person who joined him must have come up Howard street or Brown Street, or I should have seen him. They were standing there the last I saw of them.

Cross-Examined.—My first impression was, that it was Mr. Southwick; but afterwards came to a different conclusion, because I thought he was too tall, and if it had been Southwick, I thought he would have spoken to me. I thought his pantaloons were of a cinnamon drab color.

Joseph Burns, sworn.

I was born in old Spain; have lived here about 25 years. My place of business is in St. Peter street. I keep horses to let—my stable is near the head of Brown street. I know Francis Knapp. Had a conversation with him in the stable, after the murder, and after the Committee of Vigilance was appointed. It was just after the Wenham robbery. He came into the stable, and asked if any body was in the stable besides me. I told him no. He asked me whether I had any loft, or place up stairs; I told him yes. He said "the best way is for us to go up, as I want to say something particular to you." We went up—then he asked me if I knew any thing about Capt. White's murder. I told him "no—I wished to the Lord I should, because I would make it known pretty quick." He said the Committee had heard I was out on the night of the murder, till about 10 o'clock; and, said he, "if you saw any one, any friend, out that night in the street, don't you let the Committee know it, for they will try to pump something out of you." He said his brother Joseph was a friend of mine, and he himself too was a friend to me. He said the Committee wanted to pump me, to see if they could catch me, in one thing or another. I then said that I knew all the members of the Committee, and if they wanted me any time, I was ready to answer them to any thing. Then I asked Knapp what he thought of the Crowninshields, who were in jail. Mr. Knapp said they were as innocent of that as he and I. I asked him who did it, then? He said Capt. Stephen White must be the one. I said, "don't you tell me such a thing as that. I know Capt. Stephen White, and have known him ever since he was 18 or 19 years old." Then he put his hand under his waistcoat, where he had a dirk, and showed the handle. I said, "d—n you, I don't care for you, nor twenty dirks." Then he said that he was a friend to me, and had come to give me this information, that I need not get into difficulty. I know Joseph J. Knapp, jr.—he used to come to my stable to hire, and to put up horses. He was there on the week before the murder. He sometimes wore a cap, and sometimes a hat. He usually left one of them there. He wore

also a cloak, or surtout, and likewise left one or the other of these. His clothes were sometimes left in the entry, and sometimes in the chaise, and I put them into the entry.

Nathaniel Kinsman, called again.

I reside in Brown street. A few days after the murder, I went out to see from what part of that street I could distinguish the window in the chamber of Capt. White. I could see the window from the south-east corner of Mr. Downing's house, at the corner of Howard and Brown sts. I could see the north window of Capt. White's sleeping chamber, and that of the chamber above. I have no doubt that I might have seen the windows in the chamber of Mrs. Beckford, but my object then was to ascertain whether I could see the window in Capt. White's chamber. There is no building to interfere with the range of the second story. As far west as the next house to Mr. Downing's, which is the one in which I reside, and is 18 or 20 paces farther up, I could still see the window, and also in all the intermediate space. East of the south-east corner of Mr. Downing's house, could not see it.—There is one passage way from Essex street to Brown street. It is not public—it comes through to where the Sun Tavern used to stand, and is nearly as far west as the Church. There are two passage-ways, with a gate to each, which you must open. It would be nearer to go from the Ropewalk steps to Capt. White's house by Newbury street, than through either of these.

Cross-examined. I could see the windows very plain, without getting upon the steps of Downing's house.

Philip Chase, Affirmed.

Early after the murder of Capt. White, I heard of a suspicious man's having been seen on Rope Walk steps. Thought he might be watching. I went to see if any thing could be seen from steps. A little to the west from the opening of Howard Street, I could see Capt. White's chamber window. I think it was rather more than half way across Howard Street, that I first saw the window. But on Downing's steps could see it very plain. Don't know how far West of the steps I might have seen it.—Could see range of windows.

Cross-examined. I don't know which was Mrs. Beckford's chamber, don't know that I examined that. I had no suspicion, of any particular person having been concerned in murder, when I went to look at this window. It was before the Knapps were arrested. I had no suspicions of the Knapp's, before I heard of the Wenham robbery.

Mary Jane Weller, sworn.

I know George Crowninshield. About three weeks before the murder, he was at my house. It was in the morning. I went into his room where he slept. Mary Bassett and I found a dagger under the pillow of Mary's bed. He had been sleeping with Mary that night. I asked George why he carried a dirk. He said it was because it had once saved his life, and some Salem fellows were going to flog some Danvers fellows. On the evening of April 6, between 10 and 11 o'clock, he came to my house. I heard the Clock strike 11 after he came in. Saw him there next morning. I went out and heard of the murder. Then went into George's Room and told him. He appeared to be alarmed, and Mary was alarmed. I wanted to go down to Capt. White's to see the body, and asked Mary to go. George was unwilling to have her go. He told me that morning not to say any thing about that dirk; he said every scrape was laid to the Crowninshields. He stayed there all day, and did not go away until the evening. The hour he came at, was between 10 and 11. He had been accustomed to come there at dark, and to go away again, and come back between 12 and 1. He had stayed there once all day, a very cold day. This time, he said he had a bad headache, and laid abed nearly all day. He asked if we went down, not to say any thing, about his being there, and not to say any thing about the dirk. Went away

about dark, day after the murder. The dirk was about as long as a case knife—it had an ivory or bone handle.

Cross-examined. *Counsel for prisoner.* What sort of weather was it the next day?

Witness. You know, as well as I do, I am not going to answer any such silly questions. I've told my story and I don't want to be made fun of.

Hon. S. C. Phillips, called again. Cannot recollect, that I ever received *five-franc* pieces, they are sold as merchandise, not much used as a currency. They go by tale.

Cross-examined. I am a merchant, the usual currency is bills or checks.

Miss Catharine Kimball, sworn.

I was at Capt. White's house, on the next day after the murder. I found the Key of his chamber door, under the sofa covering. It is a common door Key. Mrs. Stanley was with me, don't recollect, what she did with it. I think, though I am not positive that Mr. Deland was present.

Benjamin White, called again. The last time Joseph J. Knapp, jr. was at Capt. White's house, before the murder, was Sunday before. Mrs. Knapp was with him. Took tea there. Capt. W. not at home. He took tea at Mrs. Stone's, Chesnut Street. Mr. Knapp did not come, till towards night. Mrs. Knapp came first.

Cross-examined. The plank, found under the window, came from before the garden gate. It is just beyond the shed. It opens into the yard fronting Essex Street. You go along the yard to garden gate.

Re-examined. Plank so near door step that one might step on it from the door.

Cross-examined. The small gate was not usually fastened, but generally shut. I was examined by Committee of Vigilance, as if suspected.

Henry R. Deland, sworn.

I was at the house of Capt. White, on the day after the murder, after the body was laid out. I saw the key of the chamber on the sofa. We looked for it to fasten the door. Miss Kimball was there. I called at Capt. White's house, on the day before the murder, between half past 12 and 1. Lydia Kimball came to the door.

Hon. Gideon Barstow, sworn.

I went with Mr. Colman, on the 29th May, at his request, to the Meeting house, in Howard Street. Mr. Colman went to the further steps of the house, put his hand under the step, and drew out the bludgeon, and said this killed Capt. White. *Five franc* pieces form a small portion of our currency. Do not recollect receiving but one. They are considered as merchandise, and generally pass at a discount.

Jedediah H. Lathrop, sworn.

I live in Beverly on the farm owned by Capt. White. He was there on the day before he was murdered. His young man came with him. It was after dinner. He returned home, about five o'clock. The next time before that, he was there on Friday April 2. He came up in his wagon. He then came up after dinner. Usual hour for dining one o'clock. He started to come home, about sunset. Generally went through Danvers. Would go across North Bridge. But whether he went that way, on that day, do not know.

Jonathan Very, sworn.

I live with Mr. Osborn, and have the care of his Stable. I know Francis Knapp very well. One time Francis came to me, and asked me, if I would bring him a horse and chaise behind, or near the Court House. He gave no reason for it. I brought the horse and chaise, between the Court House and Mr. Chase's. Nobody got in with him. Do not know which way he went. It was between 1 and 2 o'clock. I had just come from dinner. Some grain was brought up from wharf same day. Had been drawing grain. This was the last day of our drawing it. It

was on the Friday afternoon before, that we began to draw it. I never carried a Chaise to him before.

Cross Examined—He asked me to harness Nip Cat, in the chaise, and bring him as soon as I could.

William Osborn, called again.

I have with me a bill of the grain, bought of Mr. Hacker. It is dated *second* of the *fourth* month. We began to remove the grain on the same day, and finished drawing it on Tuesday.

Cross Examined—Am positive, that the day we finished drawing the grain was Tuesday.

William E. Hacker, affirmed.

I made an agreement with Mr. Wm. Osborn for the sale of a quantity of oats to him on the 2d of April last, and he commenced taking them away immediately. He took away the last of them on Tuesday April 6th.

Cross-examined. I know that the agreement was made on the second of April and that they were several days in measuring the oats.

John W. Treadwell, Esq. sworn.

I am cashier of the Merchants Bank. Five franc pieces are not a common coin—rather an article of merchandise. They are a favorite bank coin, and we generally keep them in the vaults, till we can get a premium upon them. Mrs. Beckford was a niece of Capt. White, an only sister's daughter, and housekeeper in his family. She had two daughters, one married to Joseph J. Knapp, jr. the other to Mr. Davis of Wenham. Capt. W. had nephews and nieces, children of his late brother Henry. Mr. Stephen W. and family were at Boston last winter at Tremont house.

Cross-examined. I am one of the committee of Vigilance. The committee consulted Mr. Choate as Counsel. They did not retain any other Counsel, to my knowledge. They did think proper to take an oath not to divulge their proceedings. I do not know how the expenses of the committee were paid. A letter was received from Mr. Stephen W. offering them \$1000—to pay expenses, if their investigations should not lead to the detection of the murderers.

William Osborn, called again. I commenced removing the oats, bought of Mr. Hacker on the day I made the agreement, and finished the Tuesday following.

Cross-examined. It was on that day that ostler mentioned to me that he carried a chaise to the Court house for Frank Knapp, and I thought strange of it. The horse he had was *Nip-cat*.

J. C. R. Palmer called again.

And inquired of more particularly as to prisoner's visit to the Crowninshields on 9th of April.

George asked me at that time if I had heard of the murder, and said they had no hand in it. Richard afterwards asked me if I had heard of the "music" in Salem? He said, people supposed they had some hand in it—they said they should leave home. I told him I thought it a bad plan if they were suspected. George told me he took his dirk down to the machine shop and melted it down; for a committee was appointed to examine houses, and it would be a bad sign to have it found. Richard agreed to meet me at Lowell on the first of May. He said he had to finish some cloths and could dispose of them and get some money and go to New York. He gave me \$5—bill on Newburyport Bank.

Cross-examined.—I never have stated that the murder was committed with a hatchet—I said I found a hatchet in the machine shop and threw it into one of two places, did not recollect which. I told Jones I had seen a hatchet and suspected it had been used, because I saw an account in the newspapers that the murder was probably committed with a hatchet—I put it away so that it might be found if called for. It had the handle newly sawed off and had clay on the head of it, but was just like any other hatchet. George said he had melted the dirk because a committee was appointed. I am positive that this was on the 9th of April.

David Starrett, sworn.

I live in Wenham and keep a store there. I heard of the robbery of the Knapps, last spring. There was nothing done to detect the robbers. I saw the prisoner at my store on the afternoon before the murder, about 4 o'clock. My store is about one quarter of a mile from Joseph Knapp's house.

Abraham True, sworn.

I live in Williams street, pass through Brown street several times every day. I took particular notice, soon after the murder, of Capt. White's house, and the back windows of the two upper stories are perfectly visible from Brown street when the trees are not covered with leaves. I am a retail grocer, do not take a dozen 5 franc pieces in a year.

Cross examined.—The windows are not visible from all parts of Brown street, but they may be seen from Howard street and several rods above, westerly. They cannot be seen from the rope walk steps, but can be seen from a point six or eight feet west of the steps, I should think. The western windows of the front chamber may also be seen.

A majority of THE COURT having decided that the confession of the prisoner could not be given to the jury, Mr Webster submitted to the Court an application on behalf of the Government for a re-argument of the question.

THE COURT were very clearly of opinion that it would be proper to hear an argument, not being unanimous in the opinion already expressed.

On the part of the Government, it was contended, that the confessions of the prisoner were proper evidence to be submitted to the jury, on several grounds.

1. The assent to J's confession, which was asked of the prisoner, was not such a confession as comes within the protection of the principle of law.

2. What was said by Phippen Knapp to the prisoner, even if said with a view to draw out a confession, is not such a threat, or promise, or encouragement as the law requires.

3. The hope of favor, whatever it was, was addressed exclusively to obtaining his assent to J. J. Knapp's disclosure, and had no application expressed or implied to facts within his own knowledge.

The Counsel for the prisoner confined themselves chiefly to a reply to the arguments urged by the Counsel for the Government, contending that

1. The prisoner was given to understand that his brother's confession was to be made only on condition of his assent; and if he assented, then he would have a hope of pardon.

2. Consenting that his brother should confess was virtually his own confession.

3. If therefore any improper inducement was held out to him to consent, not one word of any subsequent confession can be evidence.

To these points they cited 2. Stark. 28. Hawks. P. C. B. c. 46-2. 36. Hob. 294.

THE COURT adhered to their former opinions, stating more fully the grounds of them.

After this decision, Mr Webster stated to the Court—that the question appeared to be not fully settled, and proposed to call the witness and ask him certain questions of a different character from those already proposed to him. He proposed to ask the witness whether the prisoner did assent to J's confession, suggesting that it would probably appear that he never did assent.

WILDE J. That would materially vary the case.

MORTON J. It would be most important evidence. My opinion was founded on the supposition that he assented.

Dexter. It seems to me that the time is passed when the witness can be called. He was asked to state all the conversation that related to

encouragement and he said he had done so. To call him now would be a measure of severity to which the prisoner ought not to be subjected.

WILDE J. It is much to be regretted that the question now proposed to be put had not been asked. Both Judges founded their opinion upon the supposition that the prisoner's assent was given. If such were not the fact, if the encouragement did not produce its effect, we see no reason why his subsequent confessions should not be admitted.—The Counsel could have no intention in pursuing this course. Feeling a great degree of confidence in the admissibility of the evidence, as the facts stood, it probably escaped attention. This course may be an inconvenience; but we are all of opinion that we ought to hear the witness, to ascertain if there is any important fact not before the Court.

Mr Colman, called again.

WILDE J. It becomes necessary to ask one question which was not proposed to you before. The fact the Court wish to ascertain is, whether, before the confession, there was any assent to the proposition made to the prisoner by his brother Phippen Knapp?

Ans. There was neither assent nor refusal.

MORRIS J. The fact, upon which my whole opinion turned, that is, the prisoner's assent to his brother's confession, is varied. It is now said that there was no assent. The burden of proof is upon the prisoner to show that the case is within the exception to the general rule. As the evidence now stands, it does not appear that there was any improper influence. There is no evidence of assent.

Mr Colman goes on.

I had been informed that the murder was committed at a very early hour in the evening—I thought it incredible, and asked the prisoner at what time it was done. He told me between 10 and 11. I had been incredulous about there having been but one person in the house. He told me, that Richard Crowninshield alone was in the house. I asked him if he was at home that night. He said he went home afterwards. I asked him, in regard to the weapon—the place where it was concealed. He told me under the steps, [as before] and said that if I went there, I should find it. I asked what became of the dagger or daggers.—I am not certain which. He replied that it or they had been worked up, at the factory.

Cross examined. The principal part of the conversation was between Phippen and Frank. I went into the cell a little before 7 o'clock, and suppose that I came out at 1-2 after 7. This was Friday afternoon 28th of May, I first visited him—I had never spoken to him before. I had some conversation with him at another time at his window. I went immediately from the cell of Joseph to that of Frank. Phippen was not in Joseph's cell with me. While I was in the latter, some one knocked at the door.—I looked out at the scuttle of the door and saw Phippen—he asked to come in. I told him 'not yet.' I had not finished my business with his brother. I went to Boston to see the Attorney General. I started for Boston about 10 P. M. and arrived at the Attorney General's between 12 and 1 o'clock.

I was at Joseph's cell 3 times on that day, and again on the day following—once with Dr Barstow, and Stephen C. Phillips, Esq. I recollect beyond a doubt, which time I went from Joseph to Frank's cell—it was after the 3d visit to Joseph's, and the same evening, on which I visited the Attorney General. Frank was told that Joseph had decided &c. [as before,] and nothing more. I did not hear it stated, that Joseph had made a full confession. I never said that I would not mention, what Joseph had told me unless Frank consented to the disclosure. I never stated to Frank that there was no chance, if both refused to confess. I never told him that there was evidence enough to hang both. He never stated, that he had no confession to make. I already knew that the club was under the church steps, but which steps I did not know, until Frank told

me. I don't recollect telling the prisoner that Palmer was arrested, or that application was made for his pardon. I don't recollect that it was stated to Frank that Palmer would receive a pardon, though I think it not improbable, that it was stated. The jailer had called and told us that it was time to go, and repeated his call; then Phippen appealed to me, and Frank said, "I suppose you will use your influence," &c.

I said, this is your deliberate assent (to Joseph's disclosure,) he said, 'I don't see that it is left for me to choose. I *must* consent.' I have stated all that I so well recollect, as to be willing to state under oath. I think I stated to Mr Stephen White in Boston, at the Tremont House, and also at the office of Phippen Knapp, when Mr Dexter was present, that Frank had confirmed Joe's confession.

Phippen Knapp was present during the whole interview and might have heard it. I didn't tell Mr Stephen White that Frank had told me where the club was. I have no recollection of telling any one where it was, till I had found it, except that I spoke of it to Phippen Knapp as we came up from the Jail. I told him that I should rely upon his honor that he should not go for the club.

On Saturday, 29th May, a little before 1 o'clock, I found the club. I went to Frank's cell at the request of Phippen Knapp—his conduct was an example of filial and fraternal affection. At the request of Joseph, when I went out of his cell, I asked his father and brother Phippen to go to him. Frank did not tell me that he knew where the club was, of his own knowledge, or that any one told him it was there. He answered the question directly.

Here the testimony on the part of the Government closed, and the defence was opened by Mr. GARDINER, junior Counsel for the prisoner.

Mr. GARDINER, in introducing the grounds of defence, which he expected to establish for the prisoner, referred to his situation as being peculiarly embarrassing. His connexion with the prisoner had been but of a few days, and he had been, perhaps unfortunately for the prisoner, substituted for another gentleman, who was fully competent to do justice to his cause, by reason of his intimacy with the friends of the prisoner, and his familiarity with the neighborhood of the place where the murder was committed. He readily assented to the truth of the remark of the Attorney General, that this murder was most atrocious. He thought that the man must be very bold, who would deny it. But he cautioned the Jury not to let the enormity of the crime, and the general alarm which it excited, prevent a full and free exercise of their judgment. He urged them to remember, that the presumptions should be rather for, than against, the prisoner, particularly under the peculiar circumstances in which he was placed. He was a young man, about 19 years of age, brought up in the bosom of this peaceful community, and now, for the first time, placed at the bar of his Country, and to be tried for his life. The whole community was in a state of the greatest excitement, and ready to fix its suspicions upon any individual, who might be singled out. The Attorney General has informed you, that even the honorable relation of the deceased did not escape suspicion. Reports, the most unfounded, the most calumnious, have been set in circulation against even him. Large rewards were offered by the State, the Town, and the family of the deceased, for the detection of the murderers, and a most extraordinary tribunal was formed, under the name of a Committee of Vigilance, consisting of *twenty-seven* persons, and these selected from the most respectable portion of the community, holding their nightly sessions in secret, and despatching their agents through the State, and beyond the State. He likewise referred to the manner in which the prosecution had been conducted. It was backed, he said, by nearly all the talents of the bar of the County. Even the Legislature has been stirred in this matter. A special law has been passed for the very purpose of this trial. Justice was thought to move with too

slow a pace. Both the Attorney and Solicitor General were directed to attend. But they were thought not enough, for besides all the Bar of this County, there was brought into the Cause a gentleman, whom he considered as the most eloquent orator in his age and country. He came fresh from his victory at the South, with his brows wreathed with the laurels he had won in the Senate Chamber, to overpower the Jury with his eloquence, and to "nullify" the prisoner's defence.

Mr. Gardiner again alluded to the deep and general sensation, produced by this atrocious murder, particularly on account of the age and station in society of the victim of the assassination, but it was the right of the prisoner to ask, that the law should keep the even tenor of its way, whatever be the station of the party.

He called the attention of the Jury to the state into which the public mind had been thrown by the publication of the Confession of one of the persons implicated. So determined seemed to be the community to establish the guilt of the persons accused, that he might almost say, it was hazardous for him to appear in the defence. The cry of the people is for blood. He considered it truly an alarming state of things, if to be accused, was to be convicted, if rumors, generated by suspicion, were to be the evidence upon which the life of the prisoner was to be put in jeopardy. But he had no fear on this account. He did not despair of a fair trial, even in this case. He recollected other periods of violent excitement, when the law interposed her shield, to protect the accused against the influence of popular feeling. He referred to the cases of Selfridge's acquittal, and to the trial of the British soldiers, who were concerned in the Boston massacre.

He then alluded to the strong biases, which might be supposed to have some influence upon the minds of the most honest witnesses in this case. There is a danger in human testimony, in human judgment. Witnesses testify under mere impressions. It is almost impossible that the imagination should not, in some degree, aid in filling up the outlines of fact. These considerations should be felt by the Jury, in bringing their minds to the weighing of the testimony in this case. The prisoner's awful situation required the Jury to divest themselves of all prejudices, and to shut out from their minds every thing concerning the cause, which they had not heard from the witnesses in the Court-room. It was their duty to try the cause, precisely as if they had never before heard of the murder, and if in coming to a result, they should be in the least degree influenced by out door impressions, they would violate their oaths. The evidence brought against the prisoner, should be conclusive. The Government is bound to prove, beyond all doubt, that the prisoner is guilty in manner and form, in which they have charged him.

He then distinguished the several classes of offenders connected with the crime of murder. *First*, he who strikes the blow, being the principal in the first degree. *Second*, he who is aiding and abetting, being the principal in the second degree. *Third*, he who hires and procures, and is considered the accessory before the fact. All these are subjected to the same punishment. How was the prisoner charged in the Indictment? *First*, as the person who struck the blow—next as being present, aiding and abetting the person who struck the blow. This person, in some of the counts, is alleged to be Richard Crowninshield, jr., in others a person unknown. This is the distinction of the Common Law. He who is a principal in the second degree, in England, is, under the Statute, an accessory before the fact. The Government was bound to prove, that the prisoner gave the blow, or was present, aiding and abetting the murderer. He thought the real inquiry was, whether the prisoner was there, aiding and abetting the murderer. The evidence which the Government had produced, is of a very weak nature, and is liable to great error. They first attempt to prove a conspiracy; then, in support of that, they show

you, that the murder was committed—that three men were in the vicinity of the place of the murder, at the time it was committed. They also show a combination of a great number of facts. But all these avail nothing, unless they bring you irresistibly to the conclusion, that the prisoner gave the blow, or was present, aiding and abetting the murderer. He stated that these circumstances are so connected together in this conspiracy, if the Jury should come to the conclusion that one is untrue, the whole case must fall to the ground.

He then referred to one or two cases of circumstantial evidence, as illustrating this principle. (The case of the uncle, mentioned by Lord Coke. 1 *Stark.* 502—3 & 5.) Even when a party has confessed, there are cases which show that innocent men have been executed upon their own confession.—(2 *Stark.* 43, and note. 4 *Bl.* 357.)

The whole evidence of the conspiracy rests on two conversations. One, overheard by Leighton, between the prisoner and his brother, at Wenhams, the other heard by Palmer, between the Crowninshields. So far as these conversations tend to any thing, it is to disprove the charge. As to the weight of this testimony, he intended to show that these witnesses were not entitled to credit. The Government having proved a conspiracy, they prove the murder, and ask you to infer, that it was done in pursuance of a conspiracy. Their whole evidence, if it proves any thing, shows the prisoner to have been an accessory before the fact. The circumstances of the club and dirk might have been communicated by others to the prisoner. All the other circumstances in the case afford no presumption that he was aiding and abetting. As to evidence, relating to personal identity, he referred to *Crow's* case, in the Appendix to Phillips's Evidence, p. 78. Sir ——— Davenport's case in State Trials.

The only question is, was John Francis Knapp constructively present? Even if he were in Brown-street, he was not present, except by a mere fiction of law. To make a man liable as constructively present, he must be in a capacity to render assistance, and must be there for that purpose, and must actually assist. To show that the man in Brown-street could not be considered in law, as present, he referred to some cases in the books, relating to the subject of constructive presence. He stated, that no person, knowing a felony, can be said to be present, at the commitment of felony, unless he be where he can aid, with the intent and ability concurring, and is actually aiding, at the fact. In this, as in other questions of law that have arisen, there is not so much difficulty in ascertaining the principle, as in applying it. (He cited 2 *Stark.* 7, 8. *Charge of Chief Justice Parker.* *Foster*, 350. 1 *Hale*, c. 34, p. 439. *Hawkins*, b. 2. c. 29. *Russell*, 29, 627, 1025.)

Lord Dacre's case is better reported by Moore, p. 86. 2 *Stark. Ev.* 7, 8, and cases there cited. 1 *Hale*, 533. 1 *Hawkins*, 34. *Russell*, 1025. 1 *Hale*, 463. *Russell*, 325. 2 *Hawkins* (442) b. 2, c. 29. S. 10. *Aaron Burr's* case. 4 *Cranch*, 490. *Trial*, 426.

The whole tendency of modern cases on this subject has been to narrow the principle. *Russell* and *Ryan*, 343 and 25. *King vs. Sowers*. Same 99. *The King vs. White*.—Same 113, 363. *The King vs. Stewart & Dickens*, 421. *The King vs. Kelley*. *Russell*, 22, new ed.

Mr. Gardiner went on to state that they proposed to introduce evidence to shew that the man, seen in Brown-street, was not the prisoner at the bar, but some other person; that the prisoner was in a different place during the evening; and that Brown-street was not a situation in which aid and assistance could be given to the murderer.

Mr. Dexter stated that there was one question which he wished to present to the Court, and that was whether principals in the second degree at the common law, were not made accessories before the fact, by our Statute of 1784, c. 65, and entitled to all the privileges of accessories before the fact, in the form and time of trial. This Statute is entitled "An

Act against accessories to crimes and felonious assaulters," and describes principals in the second degree at the common law, and declares that they shall be considered as accessories before the fact. He cited *Stat. 1804*, c. 123. This Statute is not repealed by the general repealing Act of 1805, c. 88. And the law does not favor repeals by implication.—2 *Cranch*, 23. 386. 3 *Wheat*. 631. 5 *Wheat*, 96. 6 *Dane*, 588.

The Act of 1804, above cited, is consistent with that of 1784; and the law does not favor repeals by implication. Note to *Stat.* of 1784, c. 65. *Russell* 30, n. 31. 3 *Mass. R.* 253. 17 *M. R.* 92. 1 *Paine*, 400.

The Attorney General and Mr. Webster said the Statute of 1784 was virtually repealed by the Statute of 1804, and that if it were not, the description of accessories before the fact, in that Statute, was not the common law definition of a principal in the second degree. The words "being present" are not used in that Statute. 6 *Dane*, 588—9.

The Act of 1784, c. 65, means being absent. As the law stood when that Act was passed, a man who should hire, procure, abet or assist, was an accessory. A man who should abet, &c. "being present," was a principal in the second degree.

The witnesses for the prisoner were then called.

Jona. P. Saunders, Esq.

The distance from Brown-street to Essex-street, through the garden of Capt. White, is about 295 feet.

I have no affidavit, made by J. C. R. Palmer, before me. I saw it last in the possession of Palmer. He had it when I left his cell. It was sworn to before me. I cannot tell in whose hand writing it was; don't know how much it contained. I received it folded, with Palmer's signature, and did not see its contents, but merely administered the oath. I have never seen it since. I don't know in whose possession it is now.

Daniel Bray, Jr.

I have stated that when I first saw the second man, he was in the middle of the street. I have not examined to see which way he could have come. If he had come from the north side of the arched gate of the Common, I could have seen where he came from, but not if he came from the south side. I could have seen him 15 feet farther south than I did. There are several paths across the Common, leading to both sides of the arch. I first saw this man 100 or 150 feet off. I could not tell whether he came round the corner or across the Common.

Cross-examined. From where I was I could see any one come out either side the arched gate. If the man had come round the corner, on the side walk, I could not have seen him until he was within 4 or 5 feet of the other man at the post. I don't think I saw him when he first came in sight. The post is 10 or 15 feet from the N. W. corner of the house. When the men were standing at the post, the one most westerly was perfectly in sight, the other could be seen by pressing my face hard against the glass.

Nehemiah Brown.

I was in Palmer's cell when he was sworn to a paper. I don't know what became of it, but think that it was left with him.

Joseph Burns.

Frank Knapp's dirk had a plated handle, which looked like silver. I am not certain whether or not it had a guard. It had a cross piece on the handle. It was not drawn. I don't know how long the handle was.

Wm. H. Allen.

I have known Frank Knapp from childhood, and have been intimate with him. I can't say whether he had a dirk before the Wenham robbery. The first time I saw it was about the time that dirks were selling in Salem. I have no dirk, myself, but I have known a few young men who have had them—this was sometime after the murder. [He identifies the dirk shewn him.] This was Frank's. Mr. Newhall made it for him.

Benjamin Leighton.

Frank's dirk had a gilt handle, with a little jog to prevent its going in to the scabbard. The one produced looks like it.

Dudley S. Newhall sworn, and dirk shewn him.

I was making this when prisoner came into my shop and wished to purchase it, and I sold it to him on the day before the Wenham robbery. I was making it for my own amusement. It was several days before it was delivered, that he said he should like to buy it. This is not my regular business—I am a Jeweller. There was a particular demand for dirks at that time.

William Peirce, sworn.

My usual dress at the time of the murder was similar to prisoner's. It was a plaid cloak and a black glazed cap. This was a common dress.—Almost all the young men wore glazed caps. Before the murder, it was not usual to wear dirks. Since that time many use sword canes, but I don't know as to dirks.

The appearance of my cloak was very different from a camblet one—it was a dark green color and shaded.

Cross-examined. I was not on the Rope Walk steps on the night of the murder, but I was in Brown street, for I live there. I don't know what time—I did not stand leaning over a post.

Asa Wiggin, sworn.

I am a Tailor. *Camblet* cloaks were the most common last winter.—From the 1st of September to April, I made 24. I did not make any plaid cloaks last winter. I made as many *mandarins* as I did cloaks.

Israel Ward, jr. sworn.

I am a tailor, and made about 50 cloaks last winter. Two thirds of this number of blue and brown imitation camblet—the other third principally of German camblet. I made also a few of cloth, and two or three of plaid.

Cross examined.—I have made clothes for the prisoner, and between the 20th and last of January I made him a frock coat, of olive or dark brown color, single breasted, snug about the body, and quite full in the skirts.

Re-examined.—I have made similar garments for others—probably from the same piece of cloth. I did not make so many *mandarins* last year as I did the year before—then I made about 30. The prisoner's frock was made in the fashion of the day.

Stephen Osborne, sworn.

I am a hatter, and live in Salem. Within the last year I have sold 1600 or 1700 head coverings—more than 500 caps, of all kinds, within the year ending about three weeks since; and of glazed and leather caps, 200 in all. I know the cap produced, and sold one like it to the prisoner, as much like it as two articles can be. I have sold 200 of the same general appearance as this, men's and boys. There are other hatters in this town. It was a common article of dress last winter.

Cross-examined.—Of this particular kind I sold last winter from 1 to 3 dozen—none of the same kind to boys.

Re-examined.—I have sold from 1 to 3 dozen of this kind, but without fur, and the rest of the 200 were of glazed leather, but had not a star like this, on the top.

The counsel for the prisoner here read copies of two warrants against J. C. R. Palmer—one dated the 8th of June, by which he was arrested and committed for further examination, upon the same charge as that against the prisoner; and one of July 10, by which he was committed by the magistrate to answer to the same charge, at the present term of this court.

They then read a copy of a record of the Court of Common Pleas of Maine, of a conviction of Palmer for breaking a shop, with intent to steal—the judgment and sentence, which was confinement to hard labor for two years, in Thomastown State Prison.

William Babb, sworn.

I keep a house of Entertainment, called the "Half-way House," between Boston and Salem. I know Palmer, but from the time he was at my house until last Friday I have not seen him. I am not certain when he was at my house; my impression is, that he came there on the 9th of April, and went away on the morning of the 10th. I heard of the murder on the 7th, in the after part of the day, I think. He never slept there at any other time, unless he got into the house unknown to me. My impression is, that it was after the murder, that he slept there. I am not positive that I had heard of the murder before. I know that it was the 9th, because I had a man (George Green) who "took too much," and I turned him away, and he signed a receipt the next morning. Palmer came out while he was signing and asked for his bill, and said he had no money. It was at this time, I think, and the receipt is dated the 10th.

Green was paid for 4 days labor. He worked on the 10th, and left the house on Sunday, the 11th. I am not certain that Green was present. *He is now covered up in the earth.*

Palmer called himself George Crowninshield, and left with me a plaid silk handkerchief, marked with that name, and offered me a note for the amount of his bill, signed George Crowninshield, and said that he should be along in a day or two, and would pay the bill. I asked him if his name was George Crowninshield—he kept his head down very much, and I said, "you don't resemble the family; I know Richard very well—but you may be a younger brother"—he said "it might be the case." I carried back the note and threw it on the desk, because my wife said that it was good for nothing. I went out, came back and never saw the note afterwards. I don't know what became of it.

Cross-examined.—The receipt I left at my house. I saw it last Friday. I can't swear that the receipt was dated the 10th, and if it were I can't swear that this was right. But I am positive that it reads 10th. The time of day was 7 or 8 P. M. when he came there, and it was after 7 in the morning, after the usual time of going to work, that he went away. I can't fix the time any nearer. I don't know which way he came. He went to the east.

Thomas P. Vose, sworn.

I live in Thomastown, and am commissary of the State Prison. I know Palmer; he was sometime in the prison. This is he now present.

James W. Webster, sworn.

I live in Belfast, (Me.) I have known Palmer these eight years. As to his general reputation for truth I don't know that he has any at all. I have always heard a bad character of him. I have heard perhaps an hundred people say, that he would not be believed at all, in any case in which he was interested. His general character is not good.

William F. Angier, sworn.

I live at Belfast and was admitted to the practice of the law about a week ago. I have known Palmer 8 or 9 years. I have never heard his general character for truth and veracity questioned.

The Counsel for the prisoner proposed to ask the witness if he would believe Palmer under oath?

THE COURT said that was not a proper question. They then proposed to ask, what was the public opinion about him as to other crimes. This question, the Court said could not be put.

They then proposed to ask whether he was not a common liar? This question was ruled to be inadmissible.

They proposed to inquire if it was not the general belief that he had been guilty of perjury?

This question was not admitted.

They proposed to ask, if his general reputation was not such that he would not be believed on oath?

The Court held it not to be a proper question.

Alfred Welles, sworn.

I reside in Boston, and import hard ware and fancy goods. I sell *arms*. I have sold small arms, such as pocket pistols and small dirks, in greater quantities within two months than usual. I have had orders from Salem for quantities—from Mr. Johnson. After the murder I received orders for short dirks from respectable persons here and in Boston, as long as I had any left. My drawers were emptied of these instruments once or twice within two months.

Major Petty, sworn.

I live in Danvers, about a quarter of a mile from Crowninshield's. I remember being at work for George Crowninshield, trimming a couple of trees. I can't tell whether before or after the murder. While at work, Richard and two young men, whom I didn't know, came up to us, I heard the name of one called Allen. I can't say whether the prisoner at the bar was one of them—one was a man about his size, and one of them had a whip, but I don't know how they came. The trees which I was trimming were within 8 or 10 rods of the house. These young men went towards the house, and George went with them. I can't tell, whether they went into the house. The front door was open. I am pretty sure that I saw two on the steps, but I am not sure who went in. They were gone but a short time, and came back to within one and a half, or two rods, of the place where I was at work—all four together, I heard talking, but couldn't hear what was said. I could if I had attended. I think that George and one of the others went a little before the rest, when going to the house, but I should say not a rod ahead—all four came back together. They staid perhaps 10 or 20 minutes, and then started to go to the factory together. The time of day was, as nearly as I can recollect, after dinner. I can't say whether Mr. Allen was the man.

William H. Allen, recalled.

The first time I went, I saw a man at work—it was 6 or 8 weeks before the murder.

Petty resumes.

I was not trimming trees in February, merely cutting them away, so that the meeting house might be seen. I should say that this was in April. I can fix the time by the work I was then employed on. I did not see the young man any more on that day. There was frost in the ground at this time.

Cross-examined.—This was not in March—I should think that it was in the fore part of April. I don't know whether it was just before or just after the 6th of April. I think I heard George call one of them Allen.

Ebenezer Shillaber Esq. sworn.

I have had a conversation with Mr. Southwick respecting the man in Brown street. I enquired of him after the arrest of the Knapps, about the men he saw in Brown street. He told me he recollected seeing a young man there. That he went into Bray's house with him, and that after having got there they saw another join the first. Mr. Southwick said that he could not see so well as Bray could, he said that he thought that the man who came from Newbury street was taller than the man who was in Brown Street.

Webster objects to asking what Southwick said except in contradiction of what he has stated on the stand.

WILDE, J. I never knew the rule restricted: what the witness said is to be given at length, and then if any facts differ it will appear.

Webster. It must appear that he has stated something inconsistent with what he stated on the stand.

Dexter. Southwick stated that the man on the steps was Frank Knapp. The height of Richard Crowninshield may be shewn.

PUTNAM, J. The question should be asked generally. You cannot ask as to any point, to which he has not been inquired of. *Non constat*

that if asked, he would not have given the same account that he has now given on the stand. He ought to have an opportunity of giving his account, before you discredit him.

Gardiner. We propose to ask the witness, generally, what description Mr. Southwick gave to the witness, of the persons whom he saw in Brown Street.

Jus. Putnam. The witness may retire, if the Counsel for the prisoner desire to ask Mr. Southwick. If Mr. Southwick has given different reasons for his belief, as to the identity of the persons in Brown-street, than what he has given in Court, the fact may be shown.

Witness. I don't recollect, whether Mr. Southwick gave me any description of the persons whom he saw in Brown-street. I asked him whether, for ought he knew, the person who came from Newbury-street might not have been Francis Knapp, and the person in Brown-street Richard Crowninshield? He said he could not tell, but for aught he knew, it might be so. I had no conversation with him about the man on the steps. My only object was to satisfy myself, that it might have been Richard Crowninshield in Brown-street.

Cross-examined. I was Counsel for Richard and George Crowninshield, when I made the inquiry.

Mrs. Burns, sworn.

On the night of the murder of Mr. White, I saw Selman and Chase at my house. It was about 8 o'clock. They came in a chaise. They tied their horse in the yard, and went away. Mr. Burns was not at home. Chase came back again about half past 9—stopped about five minutes for Selman, then took his chaise and went away. Selman came back about five minutes after Chase had gone, and asked for him. A young man was with Selman, at the bottom of the yard. I did not know who it was.

Selman said he expected Chase to call for him there. He then went away, and returned in about a quarter of an hour, to see if Chase had called for him. The last time they were there, the young man that was with him left a message to tell Chase, when he should come, that he should be at Pendergrasse's.

Webster objects to this evidence, as the declaration of a party.

PUTNAM, J. The object of the evidence is to account for George Crowninshield during that evening. Supposing this young man was he, the Court think this a reasonable mode of proving that he was at a particular place, by shewing that he agreed to be there, and then shewing that he was there.

Witness resumes. My husband's stable is in St. Peter-street. Pendergrasse's is in SouthSalem, over the bridge, and that was the appointed place of meeting.

Cross-examined. I know George Crowninshield. I did not know the voice of the one who spoke to Selman—he did not speak loud, but in a tone of moderate conversation.

John Needham, sworn.

I saw George Crowninshield, on the night of the murder, in South Fields, the first time about 7 o'clock, at the News Room, at Pendergrasse's. Richard Crowninshield paid the rent for that room. Chase, and a young man, introduced to me as Col. Selman, came in, and George a few minutes after. They stayed there about half or three quarters of an hour, and then went away, all together. I saw them again there between 9 and 10 o'clock. Chase then came alone in a chaise, and George Crowninshield and Selman came on foot afterwards. George was there all the time, except about ten minutes, that I was out. Joseph Burns, Austin and Osborn were also there, and stayed some time. Chase and Selman went off together, in the chaise, and afterward George, Austin, Osborn and myself came away together. I said that I was going home the nearest way and George said, "I'm going to Mary's, and will go with you." We went by Malloon's Mills. When I got to the gate of our house, at the corner of High and Summer-streets, we parted. This was before 11, because I

went to bed immediately, and soon after heard the clock strike eleven. Mother asked me whom I spoke to at the gate, and I told her George Crowninshield.

Cross-examined. At this Reading Room we took many papers, and its general use was for reading. Richard Crowninshield paid for the papers. We had some from Alabama, and the "Truth Teller," from New York. Sometimes we had gambling of all kinds. I should have played, if I had had the means. I was employed to make the fire, keep the key, and light the lamps. Richard Crowninshield paid me, but no particular sum—when I needed a little change, he gave it to me. The rent was \$12 a quarter, and the quarter would have ended the 11th of May, but he did not keep the room, for when the constable came there, he gave it up.

There is a game called props. I have never seen any other played. Ours was not a gambling house—a gambling house is a cheating house.—There was some liquor kept there sometimes.

Matthew Newport, sworn.

I keep a victualling cellar at the corner of Union and Derby-streets. George Crowninshield and Benjamin Selman came there on the night of the murder, between 8 and 9 o'clock, and stopped about 10 or 15 minutes. They inquired if John McGlue had been there.

Joseph Fairfield, sworn.

I live in Danvers and keep a public house. I saw George on the evening of the 6th of April about 9 o'clock with Chase and Selman at my house. They stopped there about 10 or 15 minutes, came in and took something to drink, two glasses of brandy and one glass of gin. They came and went in a chaise towards Salem.

William Austin, sworn.

I saw George Crowninshield on the night of the murder at Pendergrasse's about half past 9. I am a tanner and currier. George Crowninshield came about half past eight. He stopped in Pendergrasse's shop a little while, then went into his room. I was there with him—when he went away he went towards Marblehead. He came out with me and John Needham. I and Osborn came over the south bridge. Joseph Burns and two others were there that night besides. I did not know who they were. The clock struck 11 just as I got home. I live in Boston street. I did not know Selman and Chase at that time. It takes me about 19 minutes to walk home from the "reading room." I have walked it since about as fast as I did that evening. Chase and Selman went away five or ten minutes before I did. After they went away, Osborn and I proposed to go. George Crowninshield and John Needham came out when we did. They came immediately behind us—as we turned towards the south bridge, they turned up the hill.

Benjamin Selman, sworn.

I saw George Crowninshield on the night of the murder. I came over to Salem from Marblehead with Mr. Chase. We went up to the factory and saw George Crowninshield. Chase wanted to see him, and I wanted to see Clark Read in Salem. We went into the factory and saw George between 5 and 6 o'clock. George wanted to go to Salem to see John McGlue, to get some money. He went with us in the chaise. We stopped at the tavern opposite to Dustin's in Danvers, and then came to Salem. George got out at the post office. Chase and I went into Burns' with the chaise. After leaving the horse at Burns' shed, I then came out and met George opposite the post office. George proposed taking a walk. We went to Pendergrasse's and stopped near an hour. We got there about half past 7, and staid till after 8. We then came over into Salem, and went down to the Franklin building on the common, and Chase found a friend there—a female—and went away with her, and said that he would join me in 15 minutes at Burns' stable. I then went with George down to Newport's cellar, and staid there near an hour. George said that he wanted to see Mr. McGlue who owed him some money—

'twas 9 o'clock when we came away, and then came up to Franklin building again. I wanted to see Read, and he said he would go with me. Read's is in Williams street, he stopped at the gate and waited for me there near half an hour. We then went through Brown street to Burns' stable, without stopping in Brown street. We went to Burns' shed and found the chaise was gone. I knocked at the door and asked Mrs. Burns if Mr. Chase had been there, she said he had been gone 15 minutes. She did not know where. I went up into Essex street in front of the Coffee house and waited a few minutes, and then went over to Central street, when the clock struck 10. George then went over the bridge, while I went and told Mrs. Burns that I was going over the bridge if Chase called, to tell him George was with me.

When I got there, Chase was there with a chaise, and said he had been waiting half an hour for me, and said he had agreed to be there. I took a cigar and staid till a quarter after 10. We then took our chaise and went home to Marblehead. We left George Crowninshield in the yard and got home 5 or 10 minutes before the clock struck 11. It is four and an half miles from Salem to Marblehead. I have been in Jail 85 days on suspicion of having been concerned in the murder. I had on a hat and Chase had a glazed leather cap.

Clark Read, sworn,

I live in Williams street. Mr. Selman came to my house just after 9 o'clock on the evening of the 6th. I was just going to bed and was nearly undressed. He staid there 10 or 20 minutes. I went down to the door with him and saw a person there who spoke to me, and who I thought was Chase. At the time he said Chase would be waiting for him, but did not say that he was at the gate—

Nathaniel Phippen Knapp, sworn.

Do you know what has been testified in this case.

Answer. I have been told as to one point, as to finding the club.

I have heard something that Mr. Colman has testified—but only casually in the street, and this was confirmed by Mr. Dexter. The person who told me in the street was I believe Mr. Miller. I can't remember that any other person has told me. Mr. Dexter has told me that Mr. Colman had stated that it was by the prisoner's direction that the club was found.

Mr. Dexter at his own request, sworn to make true answers, states

After Mr. Colman had been examined, as I went down stairs the witness met me and asked me if Mr. Colman had said that he found the club by the prisoner's direction. I answered immediately that he did,

P. Knapp resumes. I heard nothing else—not a word.

Mrs. Sally Needham, sworn.

John Needham is my son, he came home on the night of the murder about 15 minutes before 11. I heard him speak to some person at the gate. I asked him who he was talking with. He had come into my chamber to light his lamp.

Cross-examined.—I knew the time because I have a watch in my chamber, and heard the clock strike, and I looked at the watch when I went to bed.

(N. P. Knapp resumes.) I was present at a conversation between Mr. Colman and the prisoner, at his cell. I went to the prison with Mr. Colman, and went to my brother Jo's cell. When we came out from there, I went to my brother Frank's (the prisoner's) cell. As I was going in, I observed that Mr. Colman looked anxious to be admitted, and I asked him if he would go in. He said yes, and came in. There was a conversation at the door of Joseph's cell. He said, Mr. Knapp, I wish that you would not disturb the club, I will get a witness, and go and get it myself, for my own security. After we went into my brother Frank's cell, I addressed him in this way—"Mr. Colman says that the Committee have evidence enough to convict you and your brother, that the only chance of

salvation is for you to confess ; that Palmer has applied for a pardon, on condition of being a witness, and that a promise of pardon has been despatched to him from the officers of Government ; that the messenger would pass through town that evening in the mail stage, and that if they did not confess before the mail stage passed thro', it would be too late ; that if either of them would confess, the committee would stop that message, and apply for a pardon in favor of him, whichever it might be. I told him, also, that the sub-committee had severally assured my father that Palmer knew every circumstance relating to that transaction, and that the only chance to save his sons was to induce them to confess. I then asked Mr. Colman if what I had related as coming from him was not true ? He said yes, and then went on to state, "I have seen your brother, (addressing prisoner.) I have made him these assurances, and offered him a pardon in case he would be willing to confess. I also assured him that if he committed any thing to me in confidence, it never should be revealed, unless he should choose to become a witness. I am authorised by the Committee to offer this pardon to either of you." I then said, "Mr. Colman thinks Jos. had better confess, for if you should be convicted after his confession, you would have a greater chance of pardon than he would." I applied to Mr. Colman, and asked him if he did not think so. He said "yes, undoubtedly—your youth will be very much in your favor—your case will excite great sympathy, especially if it shall appear that you were persuaded to do what you did by your elder brother." He then said, "but I don't insist on the preference, I leave that for you to settle between you. My brother hesitated, and said nothing. Mr. Colman then said, "you know the condition, if you stand a trial, you will both be inevitably convicted—if either of you chooses to confess, he will save himself. If Jos. confesses, and you should be convicted, you will have a good chance of pardon, but if Jos. should be convicted on your confession, his chance would not be so good. At all events, your chance will be much greater than if you stood a trial, and were convicted on Palmer's testimony." He then reminded him that he had but a few moments to choose: My brother then said, "I have nothing to confess. It is a hard case ; but if it is as you say, Jos. may confess if he pleases. I shall stand trial." I recollect nothing more than that. Nothing was said about the club in Frank's cell, in my presence and hearing. This conversation in the prisoner's cell, was on Friday evening after the arrest on the 28th of May. Mr. Colman stated to me that he had been at Jo's cell that day two or three times. Nothing was said in my presence or hearing about the time when the murder was committed. After he had been into Jo's cell, before his third visit, Mr. Colman said he made those visits, by request of the Committee, not by request of me, or any of my friends, but against our wishes. When we came out of the cell, Mr. Colman said he was going to see the Committee. Nothing further was said at that time. He said, at 8 o'clock the same evening, that he was going to Boston with Mr. Treadwell, to see the Attorney General. This conversation, I think, was at my office. I next saw Mr. Colman on Saturday forenoon, near 10 o'clock, this side of the Half-Way-House—he was coming to Salem alone in a chaise. When I met him he asked me to leave my chaise and get into his. Henry Field was with me. I got into Mr. Colman's chaise—he then told me he had seen the Attorney General, and showed me a promise of pardon, or of a *not. pros.* if confession should be made, to either of the prisoners, excepting one who was named, Richard Crowninshield, Jr. He asked me to turn back and go down to Salem with him,—said he was going to see my brother Joseph. I told him I could not go back then, and asked him not to go to see my brother without me. He said he would not go without me ; he said he would wait till I returned. He then said, I am not sure I got that story of the club from Joseph or Frank, but I believe from Joseph. I told him he did not get it from Frank, for he said

nothing about it. He then said he did not know but that he had been misunderstood about this by Mr. S. White, and asked me to take a note to him, to correct the impression. Mr. White was then in Boston. Mr. Colman said I should find him in the Senate chamber. It was a short note, written in pencil in the chaise. I took the note—went to Boston—went to the Senate chamber, and did not see Mr. White. As I was hurried in my business, I returned to Salem, and think I gave it back to Mr. C. I arrived in town about 3 o'clock, and went to the door of my brother Joseph's cell, and requested admission of Mr. Colman, who was in the cell at the time. He refused, and said I could not come in. Mr. Brown (the jailor) allowed me to ask the question, though he would not admit me. Mr. Colman said "You cannot come in, I have not finished my business," or something to that effect. He said he would meet me at my office as soon as he had done. He came to my office, bringing with him a paper, about 5 o'clock—it may have been a little before or a little after—this was Saturday. I asked him to shew me what he had in his paper; he said he would not, except in presence of witnesses. He said he would go and get some witnesses and then read it to me, or go down and see the committee and read it before them. He said he should be at Dr. Barstow's, and when he was ready he would send for me. In a little while Dr. Barstow's son came to me and I went down. I found Mr. Colman there with Dr. Barstow, Mr. Merrill, and Mr. Saltonstall. He then said he could not shew it to me, for the committee thought it not proper that I should see it. I believe nothing more was said between me and Mr. Colman.

I met Mr. Colman the Monday following, in Central-street, in a chaise. He stopped his chaise, and beckoned to me to come to him. I went. He said, you may make yourself easy on the subject we were conversing about last. I have seen Mr. Stephen White, and have not been misunderstood. The next was at my office, three or four weeks after; a week after the death of Richard Crowninshield. I believe it was the 20th of June. Mr. Dexter was not present when the conversation began. Mr. Colman said, I have called on you, Mr. Knapp, to refresh my recollection of the interview with your brothers. I may be called as a witness, and I wish to state the conversation accurately. After some observations, I don't recollect what, he alluded to the club. I denied that my brother said any thing about it. He said, well, you will probably be a witness, and will have an opportunity of giving your account of it. This was said with considerable excitement, when Mr. Dexter opened the door. He tried to calm Mr. Colman, who said he had been contradicted; but that he did not surely get the information from Joseph, and he would go and get some witnesses, and ascertain how it was.

My father failed 7th of April. The instrument is dated 7th of April. I was occupied in preparing it on the evening of the 6th. My brother, the prisoner, rode less after the failure. I had cautioned him about it in consequence of the failure. This was after the 7th of April. He was in the habit of riding much. My brother wore a glazed cap, like this in every particular. I remember the dirk—I never saw my brother have any before this.

I was up all night of the 6th of April, preparing, with Mr. Waters, my father's assignment. I went home at half past one o'clock. I left my office at sometime after nine, with my father. I went to Mr. Waters's house, stayed there till a few minutes before ten, then went with Mr. Waters to his office, in Washington-street. My father went home. A few minutes before ten, went to Mr. Waters's office. We were at his office 10 minutes, perhaps. We did nothing but strike a light and get a book. From there we came directly down Essex-street, to go to Mr. Waters's house again; on the way, we stopped at my own house to get my umbrella. It rained when we left Mr. Waters's office, and when I got to the house. When I came out, it had ceased raining. I went to Mr.

Waters's house, and stayed there till one o'clock. I got from the house, also, a key of one of the doors, that I might come in from Mr. Waters's house. I went directly home. When I got home, I found my father in the entry—he had just come in himself. I told my father he had better retire, and I sat up all night, and finished my writing. I saw nothing of the prisoner during the night. I saw him the next morning, about 8 o'clock.

Frank's usual hour of going to bed was 10 o'clock. He was the most regular person in the family in this respect. My father's house is in Essex-street, a few rods below Newbury-street. I passed Mr. White's house at 1-4 past 10, and saw a light in his chamber. I heard the clock strike 10 minutes before we arrived at Mr. Waters's office—stayed there about 10 minutes. I believe I called Mr. Waters's attention to the light, but I am not certain. I was in Derby-street or the street above it, when the clock struck 10.

Cross-examined. When I went to the prisoner's cell with Mr. Colman, I went from my brother Joseph's cell. We went to Joseph's cell together, to make the statements to Joseph, that the Committee had made to Mr. Colman, to see whether he would confess. This was on Friday evening, between 6 and 7 o'clock. I had not been to the cell of either brother before. We both went into Joseph's cell, and a conversation was had about confessing. I don't know whether Joseph agreed to become a witness for the State.

It was not positively agreed that he was to become a witness for the State; it was agreed on certain conditions. The conditions were, that he should have the preference. It was not agreed that he should have the preference, unless his brother chose that he should. I understood that Joseph's becoming States' witness depended upon Frank's consent. Mr. Colman said he should go to Joseph's cell at this time, and I asked him to let me go with him, to which he agreed.

I went into the prison with him. I cannot recollect from what place. When I left Joseph's cell, it was my purpose to go to Frank's cell. I presumed Mr. Colman intended to go out of the prison, but as I entered the door of Frank's cell, I thought he wished to come in, and I asked him to come in. I went to Frank's cell from Joseph's, to see if he had any objection to taking a trial, and suffer his brother to take the benefit of Mr. Colman's proposal. It was agreed in Joseph's cell, that I should go to Frank with this message. There was no agreement about the time or place to see Mr. Colman, and report Frank's answer.

If Frank assented, I don't know that I was to do any thing. I went to see what he had to say about it—don't recollect what I was to do if he assented—don't know that I was to report to Mr. Colman. I knew Mr. Colman was going to the Attorney General or the Committee, but don't recollect how he was to be informed of Frank's assent. I don't remember whether before going to Frank's cell, Mr. Colman said any thing about going to the Attorney General. It was a very few minutes after I left Joseph's cell, before I got into Frank's. During this time, we had the conversation concerning the club. I had been in Joseph's cell all the time that Mr. Colman had been there—heard all the conversation between Joseph and Mr. Colman. I was there 10 or 15 minutes; at this time, I presume, I heard all that was said, because nothing was said in a whisper. There was an understanding that Joseph should turn States' evidence, but if Frank did not assent, it should be offered to him. Joseph would not accept that offer unless Frank would assent. I understood he was determined not to assent to Mr. Colman's proposition, unless Frank were willing—don't recollect how it was arranged that Mr. Colman should find that out.

When Mr. Colman told me not to get the club, I was in front of the door of Joseph's cell. I heard nothing said about the daggers, in Frank's cell—do not recollect hearing any thing said about its being a hard thing

that Joseph should "have the privilege to confess, since the thing was done for his benefit." Frank said it was a hard case—a hard alternative. I will not swear that he did or did not say this. I don't recollect that it was said that it was a hard case, since the thing was undertaken on Joseph's account. I will not swear that it was not said—I will swear that I did not hear any thing said about melting up the daggers. There was no secret conversation between Mr. Colman and Frank. I have no doubt that if it had been said "the thing was done on Joseph's account," I should have heard it. I can swear I did not hear any thing said about its being done on Joseph's account. I heard nothing said about its being "a silly business," nor that it would bring him into difficulty. I heard nothing said about the time my brother went home on the night of the murder. Mr. Colman was standing up, and I sat down near my brother. Nothing was said about the dagger, or melting up the daggers—nothing was said about the club—nothing was said about its being a "silly business," nor that the business was undertaken on Joseph's behalf. I will not swear that this was not said.

I will not undertake to swear that he did not say "I told Jo it was silly business, and would only get us into difficulty." I will swear that he did not say that he went home after the murder,—or "afterwards." I can swear that there was no conversation about the time of the murder—that Mr. Colman did not ask him about the time of the murder—that nothing was said about the dirk, and nothing about the club. I heard nothing said then about Howard street Church steps. I did not hear any body say any thing to Mr. Colman that day about the bludgeon. I did not hear any thing said in Frank's cell about it by him. Mr. Colman told me he trusted to my honor not to get the bludgeon. I am not certain I heard any body say to Mr. Colman where the club was. I think it must have come to my knowledge in my brother Jo's cell that the club was under the steps. I did know it when I came from my brother Jo's cell. I think I must have got the information from Mr. Colman. I never knew under what particular step this club was—nor under which flight of steps. I never have known under what steps it was found. When we came away he said he should go to see the Attorney General. This was after we left Frank's cell. It was not said before. I recollect that I was to go and ask Frank's assent, but not how, I was to communicate the result to Mr. Colman. Nothing was said by Frank about the person who proposed the murder—nor how many were in the chamber at the time. I expected Mr. Colman was to testify to just what happened, and to be called myself to testify to the same conversations. I did expect to differ from him about the club. I understood that only one brother had hopes to be admitted as a witness by confessing. Mr. Colman offered pardon to Frank, that he might have the opportunity, if he chose, to become a witness. Mr. Colman left it to them to agree which should turn State's witness. It had not been agreed that Jo should have the preference. If Frank did not assent, Jo was not to be State's witness.

When I met Mr. Colman, coming from Boston, he stated to me that he might have made a mistake about the club, and wished me to take a note to Mr. White. I did not ask Mr. Colman not to mention that Frank had confessed about the club. The conversation was introduced by him. I did not read the note. I thought it important to correct the error, but I did not inquire where Mr. White lodged. I went to the Senate Chamber, but the Senate was not in session—I went into the other House, he was not there. I had particular business and could not wait. I first heard of the murder between 6 and 7 o'clock the next morning. I met a friend of mine, who informed me that Mr. White had committed suicide. Albert G. Browne told me.

Something has been said about my father's house being broken open. The prisoner said he found the room doors open, and the closets and desks open. Said he did not know who had done it. I don't know but

my brother first discovered it. We never missed any thing from the house.

My brother, the prisoner, had been an acquaintance of the two Crowninshield's 3 or 4 years back. He had been to New York with them.

Re-examined.—The day I met Mr. Colman near the half-way house, I went to Boston to see counsel for my brothers. I was in a hurry to get back to Salem to see Mr. Colman. I did not go to bed at all on the night of the 6th April. The prisoner belongs to Dr. Flint's society, who has visited him in prison. Before I got into Salem, when coming from Boston, I met a friend who had a fresh, smart horse. I exchanged with him that I might get home sooner.

Cross-examined again.—I wanted to get to Salem because I was afraid Mr. Colman would get in to see my brothers; they had had no counsel. I was not directed by counsel to tell them to say nothing. I had fixed an hour to be in Salem (think 2 o'clock) with Mr. Colman, as he wished me to be back, and I told him I would be in at that hour if I could. When I met him he wanted me to turn about; he agreed not to go to see Joseph till I got back. My reason for asking him not to go till I got home was I chose to go with him—that is sufficient. I wanted to see that he conducted fairly. I wished to be satisfied that the arrangements would be safe. I did not wish to take counsel on that point. I wished to be present when the letter from the Attorney General was offered to Joseph. Mr. Colman agreed to wait till my return. When I returned, I found Mr. Colman at the cell.

Solomon Giddings, sworn.

I reside in Beverly and was in Salem on the night of the murder. I passed Mr. White's house about 11 o'clock and saw and heard nothing, which attracted my attention. I was going from the wharves to Beverly, and the clock struck 11 while I was in Essex street.

William F. Gardner, sworn.

I live in the next house to Capt. White's. I passed there 25 or 30 minutes after 10 in coming from Mr. Deland's, which is the next house to Capt. White's on the other side and on the corner of Essex and Newbury street—there was a party there that night, which was just breaking up at that time. I heard no noise, nor any thing, which attracted my attention. Mr. Deland's windows look into Capt. White's front yard. Then 3 persons with me.

Stephen D. Fuller, Surveyor, sworn.

The plan made by me is correct. I have been a surveyor 14 years, live in the city of Boston. The distance from Essex street to Brown street through Capt. White's garden, is about 300 feet. [*Explains upon the plan the various obstructions between Brown street and Mr. White's garden, and the difference between his plan and that made by Mr. Saunders.*]

Nothing could be seen of Mr. White's house from the rope walk steps; nor from the post by Mrs. Shepard's house; nor from the post by Capt. Bray's house; nor from any part of the space between the two posts on the south side of Brown street, except that through a small opening between Mr. Potter's and Mr. Henderson's houses, a part of the rear of Capt. White's house but not the part in which he slept. Between the avenue from Brown street to Essex street, and Capt. White's house there are houses and other buildings; but from some parts of the avenue the upper western windows may be seen.

Charles G. Page, sworn.

I saw the prisoner on the 6th of April, about 7 o'clock, P. M. in Essex street, near the Salem Hotel—Forrester, Burchmore, Balch and I were together, and he asked us into the Hotel to take some refreshment. We stayed there about 5 minutes, then came out, and I left them. I am a student of Harvard University. Glazed caps were at that time worn by almost all the students who belong here. Our caps were mostly bought

in Boston. Sixteen of my Salem class-mates have them. Gambler cloaks are also very common among students.

Cross-examined. I recollect the night, for on the morning after the murder I was accounting for myself, as was natural, and thinking what company I had been in. I had some doubt as to what evening this was, when I was first called upon. I then did not recollect the circumstances by which I could fix the time, but have recalled them since. I have never said that I did not recollect, but when first called upon I wished time for consideration.

Moses Balch, sworn.

I live in Lynde street. On the evening of the murder, I think, but I am not positive, I was with the prisoner, and Burchmore, and Page, and Forrester. I first saw him in Essex street, between 6 and 7 o'clock. I was with him 3-4ths of an hour. I saw him again between 8 and 9. He came into Remond's, in Derby Square. Burchmore, I think, and Forrester, and Page, were with me when he came in. We left that place about 9 o'clock, and all went to walk in Essex street. I left the prisoner at the corner of Court and Church streets, about 10 o'clock, to go home. My impression is that he went down Church street. I was with him all the time, from 9, until near 10. Forrester left us at the corner of the Franklin Building.

I know that dirks were very common after the murder. I know one or two young men who wore them before. I wore a glazed cap at that time.

Cross-examined. I cannot say positively that this was on the night of the murder. It was either on Monday or Tuesday evening. I cannot tell any nearer.

Gardiner. What was the weather on Tuesday evening?

Webster. I object—this question should have been put during the examination in chief.

The Court over-ruled the objection, and witness resumes—

The evening on which we were walking was dark and cloudy. We were at Remond's, smoking, when Frank came in. Remond's is an oyster-house. We were at the Salem Hotel the first part of the evening. When I got home, the folks had gone to bed; so it must have been 10 when I left the prisoner.

Zachariah Burchmore, jun. sworn.

On the evening preceding the murder, I went with the prisoner, and Page, and Forrester, to the Salem Hotel, about 7 o'clock. We staid there about 1-4 of an hour, and the prisoner left us. About an hour after, Forrester, Balch and I were sitting and smoking at Remond's, when he came in—about half past 8. We all went out together just before 9. I don't remember whether Forrester went out with us, or before. We walked in Essex street about half an hour, and I left him about half past 9, at Franklin Building, or opposite.

Cross-examined. To the best of my belief, this was on the night of the murder.

Re-examined. I am not sure whether it was before or after the murder; but my belief is that it was the same night.

I generally wear a hat.

Cross-examined. I can only recollect that it was on the evening that we were in the Hotel that I saw the prisoner. I don't remember what the weather was.

John Forrester, jun. sworn.

I took a walk with the prisoner, I think, on the evening of the murder. I met him in company with Balch, Burchmore and Page, and was introduced to him—this was about 7 o'clock. I was with him about 20 or 30 minutes. We went to the Salem Hotel. He left us, and I saw him again in about an hour at Remond's.

Cross-examined. It was on the night of the murder, or the night be-

fore, or the night after, that I walked with the prisoner and the others. I never walked with them all but once.

Judson Murdock, sworn.

I live in Brighton, and keep a public house, and saw a man whose name I have since understood was Palmer, but he then wrote his name J. C. Hall. He came there on Monday 3d of April, at 9 in the morning, I do not know from where, and stayed till the next day at 3 or 4 P. M. and then went towards Boston on foot. It is 5 miles from Brighton to Boston—from there to Charlestown 5 miles—and about 13 miles to the Half-way House.

Joseph J. Knapp, sworn.

I am the father of the prisoner, and made an assignment of my property on the 6th of April. I was at home that night a little before 10. I came from Mr. Waters's house in Derby street. I saw the prisoner just after 10. He entered my front northern parlor about 5 minutes after 10, and asked me if he should bolt the door. I told him no, for Phippen was out, and I should wait for him. I told him that I was very glad that he was at home in good season. He asked me if I wanted any assistance. I told him no. I asked how the weather was, and he said that it blew fresh from the east. I asked him if he knew the time, and he told me that it was just 10. He then retired to his chamber, and left me in the parlor. I did not go to bed till after 2 o'clock. His chamber was in the west end of the 3d story. There is only one stair-case up to the 3d story. My door opens into the entry. To come out of Frank's chamber, one must pass my door. He usually keeps his cap, when in the house, upon the window of the keeping room. I saw it there that night; he threw it there when he came in. No person moved in the house that night, except Phippen, when he came in. I saw Frank again the next morning, between 7 and 8 o'clock, when he came from his chamber. He usually put his boots in the kitchen; I don't know where he put them that night. His usual hour of coming home was about 10; he was very regular. He will be 20 years old next month. My son Phippen was with me until near 10. I left him at Mr. Waters's house. I again saw him about 20 or 25 minutes after 10, when he came in to take the key, that he might enter after he had finished his business. He was assisting Mr. Waters in making an assignment of my property, and he rejoined me just after 1 o'clock. He went to bed before I did, and at about 2, immediately after he came in. I did not see either of my sons in the chamber that night.

Cross-examined. I saw Mr. Michael Shepard that night, at my son's office, about 1-4 after 9 o'clock. I did not see him after that time. When I went home I had come from Mr. Waters's house, about 10 minutes before 10 o'clock, and left my son with Mr. Waters. I saw Mr. Shepard again the next day; I am not certain where, whether at his house or in the street. I believe that it was at his dwelling-house after breakfast. I had no conversation with him about Frank's being at home on the evening previous. I next saw him the same day, at the Mercantile Insurance Office, but had no conversation with him about it then. I saw him also again in the evening of the same day, abreast of the Asiatic Bank. I then had a conversation with him, and told him that my son was at home before half-past 10 o'clock. We had then no particular conversation, excepting he asked me if could credit what was in circulation—the arrest that had been made. Joseph and Frank had been arrested then. The Crowninshields had been arrested before. I remembered so as to tell Mr. S. all that happened the night before.

I have mistaken the questions—that conversation took place after the arrest.

I saw Mr. Shepard on the evening of that day at the Asiatic Bank. Nothing was then said about the time that Frank was at home. The first conversation on that subject with Shepard might have been the day of the arrest, or the day after the arrest of Joseph and Frank. I am

sure that they had been arrested when I had this conversation with Mr. Shepard, abreast the Oriental Insurance Office. It was on the evening of the arrest, and no other person was present. This was the only conversation I had with Mr. Shepard on the subject. Mr. Shepard introduced it. I told Mr. Shepard that my son was at home in bed before half-past 10 o'clock, and that I was at home so as to know when he came in. I told him I knew that the clock had not struck 10 when I left Waters's house, and that he was at home and had retired before 20 minutes after 10. I told him that Frank came in and asked whether he should bolt the door. I did not tell him that I recollected seeing Frank throw his cap upon the window-seat.

I don't recollect any conversation with Mr. J. W. Treadwell, about the time that Frank came home on the night of the murder, and have no knowledge of ever having talked with Mr. Treadwell on the subject; or of having said to him that I did not know what time Frank came home; or of having said, that "they said he came home at half past ten." I did nothing about the assignment till Mr. Shepard went away; he was to be my assignee. We talked about business in the street.

I was sitting up late to prepare a schedule of property. I did not see the assignment till the next day, when I signed it. I was collecting memorandums and papers necessary for the assignment.

Aaron Foster, sworn.

I live in Beverly and am the toll keeper at Beverly Bridge. I saw Frank Knapp pass the bridge some time after the murder with a sorrel horse. I think—I can't recollect his passing before the murder with such a horse. I know it was after the murder, because after he had paid toll he snapped his whip and said, this is the horse to go over the ground. It occurred to me that though he was a relative of Capt. White he did not care much for his death, and that if he had had this horse he might have escaped from the Wenham Robbers.

Cross-examination.—I knew Richard Crowninshield jr. very well. The time I saw Frank pass the bridge, was after the robbery; there was a young man with him who gave me a 5 franc piece. Of these we receive very few, sometimes 2 or 3 a week—sometimes 2 or 3 a day—sometimes more.

Re-examined.—I did not know the young man in the chaise with him, and I did know Richard Crowninshield jr.

James Savary, sworn.

I board at the Lafayette Coffee House. I work for the Salem and Boston Stage Company. I was in the street on the morning of the 7th of April. I went about 20 minutes before 4 o'clock from the Lafayette Coffee House to the stable in Union street. I saw some person turn out of Capt. White's yard and come up street towards me. He came as far as Mr. Gardner's yard and then turned and ran. I was then between the two Peabody's houses. I saw him running down as far as Walnut street. As far as I can judge he was a man about my size. It was dark and misty. He had on a dark dress.

Nathaniel Kinsman, called again.

I have testified to an observation I made of the windows on the second or third day after the murder, I could then see the whole of Capt. White's chamber window distinctly, 20 paces W. of the S. E. corner of Downing's house. I paced off the distance to ascertain.

Silas Walcutt, sworn.

I lived with Caleb M. Ames' in lower end of Daniel street, on the 6th of April. It leads into Derby street. I was out on the morning of the 7th between three and four. I was going to call Mr. Ames who lives in Palfray's Court, because one of his horses was cast in the Stable. When I was going up the Court, I saw a man nearly opposite Mr. Prince's house in Derby street. He was walking easterly when he saw me, he then turned round and walked back westerly seven or eight rods off. The

last I saw of him was when he was just above Mr. Prince's house. He was a middling sized man. The morning was pleasant though rather loggy.

John Mc Glue, called again.

At the time of the murder, I owed Richard Crowninshield jr. some money. I do not know how much. Perhaps it was \$30 or \$40. It was for work he had done at the factory for me. It was for caps and turned axletrees. He asked me for the money before, and after the murder. He wanted *fifteen* or *twenty* dollars. I did not then pay him any part of it. On the Friday night before he was taken up, I paid him \$7. He called me out, and I went down to the Franklin building, and he told me, if I would pay him, he would let me have it back, if I wanted it—I told him I would pay him on the next week. after murder he came to Newport's to find me and I gave him an order for \$10. He told me a man was going to give him money and did not. This was Friday before he was arrested. Then George came for some money and asked for me.

Warwick Palfray jr. called again.

I published in my paper of Monday an account of the finding of some flannels, in Danvers, which was on the Saturday previous to the publication. Richard Crowninshield jr. hung himself, I believe, on the next Wednesday.

Nathaniel P. Knapp, called again.

When my brother started for Wenham, at the time of the robbery, I was not at home. I don't recollect hearing them speak of arming themselves before they went. I never heard a syllable of their saying jocosely, they might be robbed. I never said I did. I never gave a different account of Mr. Colman's conversation. I never gave a different account of the light in Mr. White's chamber.

FOR THE GOVERNMENT.

George Wheatland, sworn.

On the day before the arrest of the Crowninshields, 10 o'clock, A. M. Phippen came to my office. Said I, "let's hear about the robbery at Wenham." He replied that there had been a number of strange circumstances lately, and mentioned the affair of the house in Bridge street, and gave some account of the 'robbery'—said that when his brothers went off that evening, thinking they might be attacked, Frank took his sword cane and made a parade about his pistols, but finally went without them.

A few days after the murder, he said that on the night of the murder he saw a light in Capt. White's chamber. He staid in his office till near 10, then went down to consult Mr Waters, at his house. He went up with Mr Waters to his office, and stayed there till near *eleven* o'clock. He could not tell when it was he saw the light, as he passed Capt. White's house four times. He spoke of the interview between himself, Mr Colman and Prisoner. I asked Phippen why Mr Colman went to Frank's cell. He stated that Mr Colman was a very intimate friend of the family, and married Joseph. That he went to Joseph's cell, and Mr Colman told him that he was engaged then. He said that when he went in, Joseph had been telling Mr Colman, every thing, and he (Phippen) told Mr Colman they must go, and tell Frank what they had been about. He said, he mentioned to Frank, that Joseph was going to confess. That it would be better as Joseph had a family, and Frank if convicted would stand a better chance to get a pardon. I asked Phippen if Mr Colman had asked Frank any questions. He said he did ask him some, and that Frank answered. I don't recollect what the question was, or the answer. I told him, that it would be enough to make Frank a principal. I told him that the confession was premature. He said that it made no differ.

ence, as they had evidence enough already to convict Dick as a principal
Cross-examined.—I don't remember the question Mr Colman asked. I don't know whether it related to the weapon being found, or his being in Brown street, but think it did to one or the other. Phippen had told me that Frank was in Brown street, but I do not know whether he got it from Frank or Jo. I do not know the reason why I thought it would prove him a principal. I have told this, to only one person, I believe, Mr Stickney of Lynn. I cannot swear it was one of those things which I have stated. I was asked by Mr Webster, whether the question was about the club, or about Brown street. I told him, it related to either one or the other. I can't positively say, whether I have expressed a hope, that the prisoner would be hung, but I think I have. I have said they were guilty. I thought Joseph Knapp was premature, because I heard that Palmer did not implicate the Knapps.

Rev. Mr. Colman, called again.

I heard the testimony of Mr. Phippen Knapp, but it does not lead me to alter my own. My first interview with Joseph J. Knapp, jr. was on Friday, 28th of May, at the examination before Justice Savage, at the prison. I went afterwards to see him, with the approbation of the Committee of Vigilance, and staid with him till near one o'clock. I went again about three o'clock, at his request. Mrs. Knapp also requested it. I remained with him till four. Joseph desired me to ask his father and brother to come to him with me. I went to Mr. Knapp's, senior, for them. He wished me not to go, because it would be said Joseph was making a confession. He desired me to see Phippen. I went to his office, and he was not there. I waited 15 minutes for him, saw him coming in St. Peter-st. from the jail. I went to meet him—as we stood talking, Mrs. Beckford and Mrs. Knapp went to the jail. While I stood by the chaise, Joseph Beckford came out, and said Joseph wanted to see me. I declined. Very soon, Mr. Brown came again for me. I then went, and Joseph made a full disclosure. While I was there, Phippen came to the cell, and requested me to admit him. I declined, till I had finished, then admitted him. Phippen said, it must not be made, unless Frank consented. I then went into Frank's cell, &c [as before stated.]

On my return from Boston, on the next day, I met Mr. Phippen Knapp near the Half Way House, as he has stated, in a chaise with a gentleman. I beckoned to him, and asked him to come to my chaise. He asked me if I had said anything as coming from Frank. I told him I thought I had to Mr. Stephen White, who was in Boston, and whom I had seen that afternoon. I wrote a note, in pencil, to Mr. White, requesting him to consider Joseph as authority for what I had told him.

Mr. Knapp desired that I would not go to see his brothers till his return. I promised to wait till one o'clock, and did wait till three, and then went.

Cross-examined. As we came out of the jail, Mr. Phippen Knapp went to the cell of Joseph, to tell him, as I supposed, that Frank assented—I thought so. When I went to the jail with Mr. Dexter, I told him I had no doubt about Frank's having given me direction where the club was to be found; but went with him to Joseph, to satisfy myself. I did not tell Mr. Dexter that I had nothing from Joseph, about the club. I asked Jos. whether he had told me particularly where the club was. This is my impression. I do not recollect the precise words. I cannot recollect whether I told him I wanted him to answer me a question, and that I wanted only a negative answer.

Michael Shepard, sworn.

I had a conversation with Capt. Knapp senior soon after the murder, while passing from the offices to my store and, I asked if Frank associated much with two young men that I suspected. He said that he did not, but had kept very good hours of late, and that on the night of the murder Frank came home and went to bed at 1-2 past 10 o'clock—

"so Phippen told me" said he. Capt. Knapp did not tell me as from his own knowledge at what time Frank came home. This was before the arrest of his sons, and I think before the arrest of the Crowninshields, and while we were walking from the site of the old Sun Tavern to the head of Union street.

He did not tell me that he was home that evening and knew at what time Frank came in. I don't recollect that he told me that he came in at 5 minutes after 10 o'clock. He did not tell me of the conversation between Frank and him about bolting the door, nor that he heard the clock strike ten before he left Waters's house.

Cross-examined—I did not ask him as to his own knowledge concerning what time Frank came in, and don't think that I put any question to him except as to his son's associating with these two young men.

John W. Treadwell, called again.

On Friday morning, the 28th of May, I had a conversation with Capt. Knapp senior. I took him into the private room at the Bank, and told him that I was entirely satisfied of the guilt of his sons, and advised him to go to the jail, and get a confession from one of them if he wished to save either. He said he would go. I then asked him if he knew where Frank was that night. He said no. I then put the question "at what time did he come home?" He said "I don't know, but I believe about the usual time" and added that he himself was up that night till very late, arranging his papers.

Mr. Shepard again.

Capt. Knapp was at that time probably a good deal agitated. He had found it necessary to assign his property. I however saw nothing unusual. He was a little disturbed and perhaps mortified.

George W. Teal, sworn.

I live in Danvers, and attend the Bar at Dustin's. I saw the man now called Palmer there at about 6 o'clock P. M. on the 9th of April. He staid there near an hour and a half. It was the day after Capt. White's funeral. I was told to watch him as a suspicious person. He left there about 7 o'clock.

Stephen Brown, sworn.

I lived at the Hotel in Lynafield last April. I saw Palmer there on Wednesday before 'the fast.' He came there about 9 in the morning, and stayed until 7 or 8 o'clock on Saturday morning, except that he was away on Friday afternoon.

Cross-examined.—I saw him in the bar room on Saturday morning, and he talked as if he had been at a public meeting in Salem on the night before.

FOR THE PRISONER.

Elizabeth Benjamin, sworn.

I am a domestic at Capt Knapp's senior. On the night of the murder, Frank must have slept at home, or I, who make the bed should have remarked it. I saw him come down in the morning as usual. I myself went to bed about 9 o'clock Phippen did not go to bed that night. I found him in the morning writing in the keeping-parlor. I got up about 5 o'clock in the morning. I heard of the Wenham robbery, and know that Joseph and Frank went away on the night of that robbery, after dark.—There was nobody at home when they went. The shutters of the parlor were still closed when I came down in the morning, and the lamps were burning, and nothing appeared unusual.

N. Phippen Knapp, recalled.

I remember conversing with Mr. Wheatland a few days after the report of the confession. I inquired of him about Counsel for my brothers, and he made some suggestions. The principal part of the conversation was by him. I am positive I said nothing such as he has stated concerning the Wenham robbery. On the night of this robbery I went to the Beverly Lyceum, and on my way I met my two brothers, Samuel and

Frank, in separate chaises. In regard to their arms, Frank, after this robbery, said that it was fortunate that he had his sword cane, and this was what I told Wheatland, and nothing else. I don't know that I even mentioned pistols to him. Some night after, Frank did take a pistol by the advice of the family. I do not recollect that I had any conversation with Mr. Wheatland about the robbery, but if I did, I have now stated the amount of it.

After I came from Waters's, on the night of the murder, I conversed sometime with father, and then went into the cellar to get something to eat, and while I was gone, father went to bed. I then wrote till day break, copying the assignment.

I never gave any other account of the light in Mr. White's chamber, than I have already given on the stand. I did not tell Mr. Wheatland what took place in Frank's cell, as he stated.

Henry Field, sworn.

On the night of the Wenham robbery, Mr. N. Devereux and myself went to the Beverly Lyceum, and soon after we got there, Mr. P. Knapp came in, and told me that he had met his two brothers.

After the conclusion of the evidence, the cause was argued for the prisoner by Mr. Dexter, and for the government by Mr. Webster.

The Jury were charged by his honor Judge Putnam.

After deliberating twenty-four hours, the Jury returned into Court, unable to agree upon a verdict, and were discharged from further consideration of the cause.

The Solicitor General, on behalf of the Government, then moved that a Jury be empannelled to try the prisoner again upon the same indictment. This was opposed by his Counsel, and a motion made for a continuance of the cause, on the ground of the absence of a material witness.

This motion was supported by several affidavits stating the facts, to which the witness was expected to testify. The counsel for the Government admitted, that the witness, if present, would testify to the facts set forth in the affidavits; and the prisoner will, therefore, immediately be again put upon trial.

PALMER'S LETTER.—[Referred to in page 35.]

WELFLEST, May 12, 1830.

Dear Sir—I have taken the pen at this time to address an utter stranger, and strange as it may seem to you, it is for the purpose of requesting the loan of three hundred and fifty dollars, for which I can give you no security but my word, and in this case consider this to be sufficient. My call for money at this time is pressing or I would not trouble you; but with that sum, I have the prospect of turning it to so much advantage, as to be able to refund it with interest in the course of six months. At all events I think that it will be for your interest to comply with my request, and that immediately—that is, not to put off any longer than you receive this. Then set down and enclose me the money with as much despatch as possible, for your own interest. This, sir, is my advice, and if you do not comply with it, the short period between now and November will convince you that you have denied a request, the granting of which will never injure you, the refusal of which will ruin you. Are you surprised at this assertion—rest assured that I make it, reserving to myself the reasons and a series of facts, which are founded on such a bottom as will bid defiance to property or quality. It is useless for me to enter into a discussion of facts which must inevitably harrow up your soul—no—I will merely tell you that I am acquainted with your brother Franklin, and also the business that he was transacting for you on the 2d of April last; and that I think that you were very extravagant in giving one thousand dollars to the person that would execute the business for you—but you know best about that, you see that such things will leak out. To conclude, sir, I will inform you, that there is a gentleman of my acquaintance in Salem, that will observe that you do not leave town before the 1st of June, giving you sufficient time between now and then to comply with my request; and if I do not receive a line from you, together with the above sum, before the 22d of this month, I shall wait upon you with an assistant. I have said enough to convince you of my knowledge, and merely inform you that you can, when you answer, be as brief as possible. Direct yours to CHARLES GRANT, jun. of Prospect, Maine.

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